

the Drug Enforcement Administration who died in the line of duty in 1985 while engaged in the battle against illicit drugs;

Whereas the Red Ribbon Campaign is nationally recognized and is in its twenty-first year of celebration to help preserve the memory of Special Agent Camarena and further the cause for which he gave his life;

Whereas the objective of Red Ribbon Week is to promote the creation of drug-free communities through drug prevention efforts, education, parental involvement, and community-wide support;

Whereas drug and alcohol abuse places the lives of children at risk and contributes to domestic violence and sexual assaults;

Whereas drug abuse is one of the major challenges that the citizens of the United States face in securing a safe and healthy future for the families and children of our Nation;

Whereas emerging drug threats, such as the growing epidemic of methamphetamine abuse and the abuse of inhalants and prescription drugs, jeopardize the progress made against illegal drug abuse; and

Whereas parents, youths, schools, businesses, law enforcement agencies, religious institutions, service organizations, senior citizens, medical and military personnel, sports teams, and individuals throughout the United States demonstrate their commitment to drug-free, healthy lifestyles by wearing and displaying red ribbons during this week-long celebration: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals of Red Ribbon Week;

(2) encourages children and teens to choose to live drug-free lives; and

(3) encourages all people of the United States—

(A) to promote the creation of drug-free communities; and

(B) to participate in drug prevention activities to show support for healthy, productive, and drug-free lifestyles.

SENATE RESOLUTION 577—DESIGNATING SEPTEMBER 24, 2006, AS “NATIONAL GOOD NEIGHBOR DAY”

Mr. BAUCUS (for himself, Mr. BURNS, and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 577

Whereas our society has developed highly effective means of speedy communication around the world, but has failed to ensure meaningful communication among people living across the globe, or even across the street, from one another;

Whereas the endurance of human values and consideration for others are critical to the survival of civilization; and

Whereas being good neighbors to those around us is the first step toward human understanding: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 24, 2006, as “National Good Neighbor Day”; and

(2) calls on the people of the United States and interested groups and organizations to observe National Good Neighbor Day with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5021. Mrs. FEINSTEIN (for herself and Mr. CRAIG) submitted an amendment intended to be proposed by her to the bill H.R. 6061, to establish operational control over

the international land and maritime borders of the United States; which was ordered to lie on the table.

SA 5022. Mr. CRAIG (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5023. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5024. Mr. MCCONNELL (for Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. HATCH, Mr. ROCKEFELLER, and Ms. SNOWE)) proposed an amendment to the bill S. 3525, to reauthorize the safe and stable families program, and for other purposes.

SA 5025. Mr. MCCONNELL (for Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. HATCH, Mr. ROCKEFELLER, and Ms. SNOWE)) proposed an amendment to the bill S. 3525, supra.

TEXT OF AMENDMENTS

SA 5021. Mrs. FEINSTEIN (for herself and Mr. CRAIG) submitted an amendment intended to be proposed by her to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 7, after line 10, insert the following:

TITLE II—AGRICULTURAL JOB OPPORTUNITIES, BENEFITS, AND SECURITY

SEC. 201. SHORT TITLE.

This title may be cited as the “Agricultural Job Opportunities, Benefits, and Security Act of 2006” or the “AgJOBS Act of 2006”.

SEC. 202. DEFINITIONS.

In this title:

(1) AGRICULTURAL EMPLOYMENT.—The term “agricultural employment” means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) BLUE CARD STATUS.—The term “blue card status” means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 211(a).

(3) DEPARTMENT.—The term “Department” means the Department of Homeland Security.

(4) EMPLOYER.—The term “employer” means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(5) JOB OPPORTUNITY.—The term “job opportunity” means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

(6) SECRETARY.—Except as otherwise provided, the term “Secretary” means the Secretary of Homeland Security.

(7) TEMPORARY.—A worker is employed on a “temporary” basis where the employment is intended not to exceed 10 months.

(8) UNITED STATES WORKER.—The term “United States worker” means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized

to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(9) WORK DAY.—The term “work day” means any day in which the individual is employed 5.75 or more hours in agricultural employment.

Subtitle A—PILOT PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS

SEC. 211. AGRICULTURAL WORKERS.

(a) BLUE CARD PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2005;

(B) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act;

(C) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under subsection (e)(2); and

(D) has not been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

(2) AUTHORIZED TRAVEL.—An alien in blue card status has the right to travel abroad (including commutation from a residence abroad) in the same manner as an alien lawfully admitted for permanent residence.

(3) AUTHORIZED EMPLOYMENT.—An alien in blue card status shall be provided an “employment authorized” endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(4) TERMINATION OF BLUE CARD STATUS.—

(A) IN GENERAL.—The Secretary may terminate blue card status granted under this subsection only upon a determination under this title that the alien is deportable.

(B) GROUNDS FOR TERMINATION OF BLUE CARD STATUS.—Before any alien becomes eligible for adjustment of status under subsection (c), the Secretary may deny adjustment to permanent resident status and provide for termination of the blue card status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States;

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500; or

(IV) fails to perform the agricultural employment required under subsection (c)(1)(A)(i) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in subsection (c)(1)(A)(iii).

(5) RECORD OF EMPLOYMENT.—

(A) IN GENERAL.—Each employer of a work-er granted status under this subsection shall annually—

(i) provide a written record of employment to the alien; and

(ii) provide a copy of such record to the Secretary.

(B) SUNSET.—The obligation under subparagraph (A) shall terminate on the date that is 6 years after the date of the enactment of this Act.

(6) REQUIRED FEATURES OF BLUE CARD.—The Secretary shall provide each alien granted blue card status and the spouse and children of each such alien residing in the United States with a card that contains—

(A) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(B) biometric identifiers, including fingerprints and a digital photograph; and

(C) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(7) FINE.—An alien granted blue card status shall pay a fine to the Secretary in an amount equal to \$100.

(8) MAXIMUM NUMBER.—The Secretary may issue not more than 1,500,000 blue cards during the 5-year period beginning on the date of the enactment of this Act.

(b) RIGHTS OF ALIENS GRANTED BLUE CARD STATUS.—

(1) IN GENERAL.—Except as otherwise provided under this subsection, an alien in blue card status shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien in blue card status shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the alien is granted permanent resident status under subsection (c).

(3) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

(A) PROHIBITION.—No alien granted blue card status may be terminated from employment by any employer during the period of blue card status except for just cause.

(B) TREATMENT OF COMPLAINTS.—

(i) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition of complaints by aliens granted blue card status who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(ii) INITIATION OF ARBITRATION.—If the Secretary finds that a complaint has been filed in accordance with clause (i) and there is reasonable cause to believe that the complainant was terminated without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(iii) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding in ac-

cordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including reinstatement, back pay, or front pay to the affected employee. Within 30 days from the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(iv) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated an alien granted blue card status without just cause, the Secretary shall credit the alien for the number of days or hours of work lost for purposes of the requirement of subsection (c)(1).

(v) TREATMENT OF ATTORNEY'S FEES.—The parties shall bear the cost of their own attorney's fees involved in the litigation of the complaint.

(vi) NONEXCLUSIVE REMEDY.—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.

(vii) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

(C) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under subsection (a)(5) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed \$1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(c) ADJUSTMENT TO PERMANENT RESIDENCE.—

(1) AGRICULTURAL WORKERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall adjust the status of an alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(i) QUALIFYING EMPLOYMENT.—

(I) IN GENERAL.—Subject to subclause (II), the alien has performed at least—

(aa) 5 years of agricultural employment in the United States for at least 100 work days per year, during the 5-year period beginning on the date of the enactment of this Act; or

(bb) 3 years of agricultural employment in the United States for at least 150 work days per year, during the 3-year period beginning on the date of the enactment of this Act.

(II) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to meet the requirements of subclause (I) if the alien has performed 4 years of agricultural employment in the United States for at least 150 work days during 3 years of those 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of the enactment of this Act.

(ii) PROOF.—An alien may demonstrate compliance with the requirement under clause (i) by submitting—

(I) the record of employment described in subsection (a)(5); or

(II) such documentation as may be submitted under subsection (d)(3).

(iii) EXTRAORDINARY CIRCUMSTANCES.—In determining whether an alien has met the requirement under clause (i)(I), the Secretary may credit the alien with not more than 12 additional months to meet the requirement under clause (i) if the alien was unable to work in agricultural employment due to—

(I) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

(II) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records; or

(III) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time.

(iv) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of the enactment of this Act.

(v) FINE.—The alien pays a fine to the Secretary in an amount equal to \$400.

(B) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien adjustment to permanent resident status, and provide for termination of the blue card status granted such alien, if—

(i) the Secretary finds by a preponderance of the evidence that the adjustment to blue card status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

(C) GROUNDS FOR REMOVAL.—Any alien granted blue card status who does not apply for adjustment of status under this subsection before the expiration of the application period described in subparagraph (A)(iv), or who fails to meet the other requirements of subparagraph (A) by the end of the applicable period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(D) PAYMENT OF TAXES.—

(i) IN GENERAL.—Not later than the date on which an alien's status is adjusted under this

subsection, the alien shall establish the payment of any applicable Federal tax liability by establishing that—

(I) no such tax liability exists;

(II) all outstanding liabilities have been paid; or

(III) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(ii) **APPLICABLE FEDERAL TAX LIABILITY.**—For purposes of clause (i), the term “applicable Federal tax liability” means liability for Federal taxes, including penalties and interest, owed for any year during the period of employment required under paragraph (1)(A) for which the statutory period for assessment of any deficiency for such taxes has not expired.

(iii) **IRS COOPERATION.**—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all taxes required by this subparagraph.

(2) **SPOUSES AND MINOR CHILDREN.**—

(A) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted status under paragraph (1), including any individual who was a minor child on the date such alien was granted blue card status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(B) **TREATMENT OF SPOUSES AND MINOR CHILDREN BEFORE ADJUSTMENT OF STATUS.**—

(i) **REMOVAL.**—The spouse and any minor child of an alien granted blue card status may not be removed while such alien maintains such status, except as provided in subparagraph (C).

(ii) **TRAVEL.**—The spouse and any minor child of an alien granted blue card status may travel outside the United States in the same manner as an alien lawfully admitted for permanent residence.

(iii) **EMPLOYMENT.**—The spouse of an alien granted blue card status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains blue card status.

(C) **GROUND FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.**—The Secretary may deny an alien spouse or child adjustment of status under subparagraph (A) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(i) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

(d) **APPLICATIONS.**—

(1) **TO WHOM MAY BE MADE.**—The Secretary shall provide that—

(A) applications for blue card status may be filed—

(i) with the Secretary, but only if the applicant is represented by an attorney or a non-profit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(ii) with a qualified designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Secretary; and

(B) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

(2) **DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.**—

(A) **IN GENERAL.**—For purposes of receiving applications under subsection (a), the Secretary—

(i) shall designate qualified farm labor organizations and associations of employers; and

(ii) may designate such other persons as the Secretary determines are qualified and have substantial experience, demonstrate competence, and have traditional long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act, Public Law 89-732, Public Law 95-145, or the Immigration Reform and Control Act of 1986.

(B) **REFERENCES.**—Organizations, associations, and persons designated under subparagraph (A) are referred to in this title as “qualified designated entities”.

(3) **PROOF OF ELIGIBILITY.**—

(A) **IN GENERAL.**—An alien may establish that the alien meets the requirement of subsection (a)(1)(A) or (c)(1)(A) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(B) **DOCUMENTATION OF WORK HISTORY.**—

(i) **BURDEN OF PROOF.**—An alien applying for status under subsection (a)(1) or (c)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days (as required under subsection (a)(1)(A) or (c)(1)(A)).

(ii) **TIMELY PRODUCTION OF RECORDS.**—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(iii) **SUFFICIENT EVIDENCE.**—An alien can meet the burden of proof under clause (i) to establish that the alien has performed the work described in subsection (a)(1)(A) or (c)(1)(A) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(4) **TREATMENT OF APPLICATIONS BY QUALIFIED DESIGNATED ENTITIES.**—Each qualified designated entity shall agree to forward to the Secretary applications filed with it in accordance with paragraph (1)(A)(ii) but shall not forward to the Secretary applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Secretary. Upon the request of the alien, a qualified designated entity shall assist the alien in obtaining documentation of the work history of the alien.

(5) **LIMITATION ON ACCESS TO INFORMATION.**—Files and records prepared for purposes of this subsection by qualified designated entities operating under this subsection are confidential and the Secretary shall not have access to such files or records relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6).

(6) **CONFIDENTIALITY OF INFORMATION.**—

(A) **IN GENERAL.**—Except as otherwise provided in this subsection, neither the Secretary, nor any other official or employee of the Department, or a bureau or agency of the Department, may—

(i) use the information furnished by the applicant pursuant to an application filed under this section, the information provided to the applicant by a person designated under paragraph (2)(A), or any information provided by an employer or former employer, for any purpose other than to make a determination on the application, or for enforcement of paragraph (7);

(ii) make any publication whereby the information furnished by any particular individual can be identified; or

(iii) permit anyone other than the sworn officers and employees of the Department, or a bureau or agency of the Department, or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(B) **REQUIRED DISCLOSURES.**—The Secretary shall provide the information furnished under this section, or any other information derived from such furnished information, to—

(i) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

(ii) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(C) **CONSTRUCTION.**—

(i) **IN GENERAL.**—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(ii) **CRIMINAL CONVICTIONS.**—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

(D) **CRIME.**—Any person who knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to a fine in an amount not to exceed \$10,000.

(7) **PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.**—

(A) **CRIMINAL PENALTY.**—Any person who—

(i) files an application for status under subsection (a) or (c) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(ii) creates or supplies a false writing or document for use in making such an application, shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(B) **INADMISSIBILITY.**—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(8) **ELIGIBILITY FOR LEGAL SERVICES.**—Section 504(a)(11) of Public Law 104-134 (110 Stat. 1321-53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly

related to an application for adjustment of status under this section.

(9) APPLICATION FEES.—

(A) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(i) shall be charged for the filing of applications for status under subsections (a) and (c); and

(ii) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

(C) DISPOSITION OF FEES.—

(i) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the “Agricultural Worker Immigration Status Adjustment Account”. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under subparagraph (A)(i).

(ii) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the “Agricultural Worker Immigration Status Adjustment Account” shall remain available to the Secretary until expended for processing applications for status under subsections (a) and (c).

(e) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under subsection (a)(1)(C) or an alien's eligibility for adjustment of status under subsection (c)(1)(B)(ii)(I), the following rules shall apply:

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(ii) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under clause (i).

(iii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for status under this section by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(f) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(B) and who can establish a nonfrivolous case of eligibility for blue

card status (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for blue card status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an “employment authorized” endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for blue card status during the application period described in subsection (a)(1)(B), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an “employment authorized” endorsement or other appropriate work permit for such purpose.

(g) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for status under subsection (a) or (c) except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(h) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—Beginning not later than the first day of the application period described in subsection (a)(1)(B), the Secretary, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits that aliens may receive under this section and the requirements to be satisfied to obtain such benefits.

(i) REGULATIONS.—The Secretary shall issue regulations to implement this section not later than the first day of the seventh month that begins after the date of enactment of this Act.

(j) EFFECTIVE DATE.—This section shall take effect on the date that regulations are issued implementing this section on an interim or other basis.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be nec-

essary to implement this section, including any sums needed for costs associated with the initiation of such implementation, for fiscal years 2007 and 2008.

SEC. 212. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking “or” at the end;

(2) in subparagraph (C), by inserting “or” at the end;

(3) by inserting after subparagraph (C) the following:

“(D) who is granted blue card status under the Agricultural Job Opportunity, Benefits, and Security Act of 2006,”; and

(4) by striking “1990.” and inserting “1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted blue card status.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

Subtitle B—REFORM OF H-2A WORKER PROGRAM

SEC. 221. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by striking section 218 and inserting the following:

“SEC. 218. H-2A EMPLOYER APPLICATIONS.

“(a) APPLICATIONS TO THE SECRETARY OF LABOR.—

“(1) IN GENERAL.—No alien may be admitted to the United States as an H-2A worker, or otherwise provided status as an H-2A worker, unless the employer has filed with the Secretary of Labor an application containing—

“(A) the assurances described in subsection (b);

“(B) a description of the nature and location of the work to be performed;

“(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

“(D) the number of job opportunities in which the employer seeks to employ the workers.

“(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

“(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

“(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

“(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

“(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H-2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

“(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

“(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

“(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

“(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers’ compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker’s employment which will provide benefits at least equal to those provided under the State’s workers’ compensation law for comparable employment.

“(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

“(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H-2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

“(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

“(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

“(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H-2A workers.

“(E) REQUIREMENTS FOR PLACEMENT OF NON-IMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

“(i) the nonimmigrant performs duties in whole or in part at 1 or more work sites owned, operated, or controlled by such other employer;

“(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

“(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H-2A workers.

“(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

“(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers’ compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker’s employment which will provide benefits at least

equal to those provided under the State’s workers’ compensation law for comparable employment.

“(H) EMPLOYMENT OF UNITED STATES WORKERS.—

“(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H-2A nonimmigrant is, or H-2A nonimmigrants are, sought:

“(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer’s job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

“(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H-2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on ‘America’s Job Bank’ or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

“(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H-2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

“(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer’s need for H-2A workers could not reasonably have been foreseen.

“(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

“(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the foreign worker departs for the employer’s place of employment and ending on the date on which 50 percent of the period of employment for which the foreign worker who is in the job was hired has elapsed, subject to the following requirements:

“(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H-2A workers in order to force the hiring of United States workers under this clause.

“(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of

subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

“(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

“(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

“(C) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

“(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218A and 218B.

“(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

“(d) WITHDRAWAL OF APPLICATIONS.—

“(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

“(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

“(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H-2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

“(e) REVIEW AND APPROVAL OF APPLICATIONS.—

“(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the

date on which an application under subsection (a) is filed, at the employer's principal place of business or work site, a copy of each such application (and such accompanying documents as are necessary).

“(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

“(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under this subsection. Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

“(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.

“SEC. 218A. H-2A EMPLOYMENT REQUIREMENTS.

“(a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H-2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H-2A workers.

“(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

“(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

“(A) IN GENERAL.—An employer applying under section 218(a) for H-2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

“(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

“(C) FAMILY HOUSING.—If it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

“(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

“(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

“(F) CHARGES FOR HOUSING.—

“(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

“(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

“(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

“(i) IN GENERAL.—If the requirement under clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

“(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H-2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

“(iii) AMOUNT OF ALLOWANCE.—

“(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2 bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(2) REIMBURSEMENT OF TRANSPORTATION.—

“(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

“(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

“(C) LIMITATION.—

“(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

“(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

“(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

“(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

“(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

“(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORK SITE.—The employer shall provide transportation between the worker's living quarters and the employer's work site without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

“(3) REQUIRED WAGES.—

“(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

“(B) LIMITATION.—Effective on the date of the enactment of the Agricultural Job Opportunities, Benefits, and Security Act of 2006 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

“(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

“(i) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to

this section before the first March 1 that is not less than 3 years after the date of enactment of this section, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2003, had been annually adjusted, beginning on March 1, 2006, by the lesser of—

“(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

“(II) 4 percent.

“(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not less than 4 years after the date of enactment of this section, and each March 1 thereafter, the adverse effect wage rate then in effect for each State shall be adjusted by the lesser of—

“(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

“(II) 4 percent.

“(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

“(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

“(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

“(i) the worker's total earnings for the pay period;

“(ii) the worker's hourly rate of pay, piece rate of pay, or both;

“(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the three-quarters guarantee described in paragraph (4);

“(iv) the hours actually worked by the worker;

“(v) an itemization of the deductions made from the worker's wages; and

“(vi) if piece rates of pay are used, the units produced daily.

“(G) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2008, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

“(i) whether the employment of H-2A or unauthorized aliens in the United States agricultural work force has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

“(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H-2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H-2A workers in those occupations;

“(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H-2A workers are employed from falling below the wage level that would have

prevailed in the absence of H-2A employment;

“(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

“(v) recommendations for future wage protection under this section.

“(H) COMMISSION ON WAGE STANDARDS.—

“(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H-2A program (in this subparagraph referred to as the ‘Commission’).

“(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

“(I) 4 representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

“(II) 4 representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

“(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

“(I) whether the employment of H-2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

“(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H-2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H-2A workers in those occupations;

“(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H-2A workers are employed from falling below the wage level that would have prevailed in the absence of H-2A employment;

“(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

“(V) recommendations for future wage protection under this section.

“(iv) FINAL REPORT.—Not later than December 31, 2008, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

“(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

“(4) GUARANTEE OF EMPLOYMENT.—

“(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least three-fourths of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H-2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

“(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of

hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

“(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the ‘three-fourths guarantee’ described in subparagraph (A).

“(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

“(5) MOTOR VEHICLE SAFETY.—

“(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

“(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H-2A employer that uses or causes to be used any vehicle to transport an H-2A worker within the United States.

“(ii) DEFINED TERM.—In this paragraph, the term ‘uses or causes to be used’—

“(I) applies only to transportation provided by an H-2A employer to an H-2A worker, or by a farm labor contractor to an H-2A worker at the request or direction of an H-2A employer; and

“(II) does not apply to—

“(aa) transportation provided, or transportation arrangements made, by an H-2A worker, unless the employer specifically requested or arranged such transportation; or

“(bb) car pooling arrangements made by H-2A workers themselves, using 1 of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

“(iii) CLARIFICATION.—Providing a job offer to an H-2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H-2A worker by an H-2A employer, shall not constitute an arrangement of, or participation in, such transportation.

“(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H-2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

“(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

“(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

“(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

“(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

“(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

“(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H-2A worker.

“(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

“(iii) EFFECT OF WORKERS’ COMPENSATION COVERAGE.—If the employer of any H-2A worker provides workers’ compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

“(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

“(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

“(C) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

“(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer’s application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

“(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218B shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

“SEC. 218B. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H-2A WORKERS.

“(a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H-2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

“(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

“(c) CRITERIA FOR ADMISSIBILITY.—

“(1) IN GENERAL.—An H-2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218A, and the alien is not ineligible under paragraph (2).

“(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

“(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien’s authorized period of admission under this section has expired; or

“(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

“(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

“(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H-2A status, but may not be granted that status in the United States.

“(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

“(d) PERIOD OF ADMISSION.—

“(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the work site and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

“(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

“(B) the total period of employment, including such 14-day period, may not exceed 10 months.

“(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

“(e) ABANDONMENT OF EMPLOYMENT.—

“(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed

to maintain nonimmigrant status as an H-2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

“(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H-2A worker prematurely abandons employment.

“(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H-2A worker who violates any term or condition of the worker’s nonimmigrant status.

“(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

“(f) REPLACEMENT OF ALIEN.—

“(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H-2A worker—

“(A) who abandons or prematurely terminates employment; or

“(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

“(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

“(g) IDENTIFICATION DOCUMENT.—

“(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify such person’s proper identity.

“(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

“(A) The document shall be capable of reliably determining whether—

“(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

“(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

“(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H-2A worker.

“(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

“(C) The document shall—

“(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

“(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

“(h) EXTENSION OF STAY OF H-2A ALIENS IN THE UNITED STATES.—

“(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H-2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien’s stay and a change in the alien’s employment.

“(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien’s stay—

“(A) for a period of more than 10 months; or

“(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

“(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

“(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

“(B) DEFINITION.—For purposes of subparagraph (A), the term ‘file’ means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

“(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

“(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

“(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

“(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

“(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H-2A worker (including any extensions) is 3 years.

“(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

“(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H-2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H-2A worker unless the alien has remained outside the United States for a continuous period equal to at least $\frac{1}{2}$ the duration of the alien's previous period of authorized status as an H-2A worker (including any extensions).

“(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H-2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H-2A worker.

“(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—Notwithstanding any provision of the Agricultural Job Opportunities, Benefits, and Security Act of 2006, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a shepherd, goat herder, or dairy worker—

“(1) may be admitted for an initial period of 12 months;

“(2) subject to subsection (j)(5), may have such initial period of admission extended for a period of up to 3 years; and

“(3) shall not be subject to the requirements of subsection (h)(5) (relating to periods of absence from the United States).

“(j) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—

“(1) ELIGIBLE ALIEN.—For purposes of this subsection, the term ‘eligible alien’ means an alien—

“(A) having nonimmigrant status under section 101(a)(15)(H)(ii)(a) based on employment as a shepherd, goat herder, or dairy worker;

“(B) who has maintained such nonimmigrant status in the United States for a cumulative total of 36 months (excluding any period of absence from the United States); and

“(C) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(iii).

“(2) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

“(A) the alien's employer on behalf of an eligible alien; or

“(B) the eligible alien.

“(3) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)(3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa described in paragraph (1)(C) for an eligible alien.

“(4) EFFECT OF PETITION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such a petition, shall not constitute evidence of an alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(a).

“(5) EXTENSION OF STAY.—The Secretary of Homeland Security shall extend the stay of an eligible alien having a pending or approved classification petition described in paragraph (2) in 1-year increments until a final determination is made on the alien's eligibility for adjustment of status to that of an alien lawfully admitted for permanent residence.

“(6) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

“SEC. 218C. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.

“(a) ENFORCEMENT AUTHORITY.—

“(1) INVESTIGATION OF COMPLAINTS.—

“(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

“(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to

whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (G). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

“(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$1,000 per violation) as the Secretary of Labor determines to be appropriate; and

“(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

“(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$5,000 per violation) as the Secretary of Labor determines to be appropriate;

“(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

“(iii) the Secretary may disqualify the employer from the employment of H-2A workers for a period of 2 years.

“(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$15,000 per violation) as the Secretary of Labor determines to be appropriate; and

“(ii) the Secretary may disqualify the employer from the employment of H-2A workers for a period of 3 years.

“(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of \$90,000.

“(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218A(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H-2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218A(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

“(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218A.

“(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H-2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

“(1) The providing of housing or a housing allowance as required under section 218A(b)(1).

“(2) The reimbursement of transportation as required under section 218A(b)(2).

“(3) The payment of wages required under section 218A(b)(3) when due.

“(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218A(c), compliance with which shall be governed by the provisions of such laws.

“(5) The guarantee of employment required under section 218A(b)(4).

“(6) The motor vehicle safety requirements under section 218A(b)(5).

“(7) The prohibition of discrimination under subsection (d)(2).

“(c) PRIVATE RIGHT OF ACTION.—

“(1) MEDIATION.—Upon the filing of a complaint by an H-2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

“(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H-2A workers and agricultural employers without charge to the parties.

“(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other non-binding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

“(C) AUTHORIZATION.—

“(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service \$500,000 for each fiscal year to carry out this section.

“(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

“(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H-2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

“(3) ELECTION.—An H-2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

“(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H-2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

“(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

“(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

“(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

“(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

“(7) WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

“(A) Notwithstanding any other provision of this section, where a State's workers' compensation law is applicable and coverage is provided for an H-2A worker, the workers' compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State's workers' compensation law.

“(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

“(i) a recovery under a State workers' compensation law; or

“(ii) rights conferred under a State workers' compensation law.

“(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers'

compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H-2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H-2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

“(9) PRECLUSIVE EFFECT.—Any settlement by an H-2A worker and an H-2A employer or any person reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

“(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H-2A employer on behalf of an H-2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

“(d) DISCRIMINATION PROHIBITED.—

“(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218A or any rule or regulation pertaining to section 218 or 218A, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218 or 218A or any rule or regulation pertaining to either of such sections.

“(2) DISCRIMINATION AGAINST H-2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H-2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

“(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H-2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

“(f) ROLE OF ASSOCIATIONS.—

“(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as

its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218A, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

“(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

“SEC. 218D. DEFINITIONS.

“For purposes of this section and section 218, 218A, 218B, and 218C:

“(1) AGRICULTURAL EMPLOYMENT.—The term ‘agricultural employment’ means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a).

“(2) BONA FIDE UNION.—The term ‘bona fide union’ means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

“(3) DISPLACE.—The term ‘displace’, in the case of an application with respect to 1 or more H-2A workers by an employer, means laying off a United States worker from a job for which the H-2A worker or workers is or are sought.

“(4) ELIGIBLE.—The term ‘eligible’, when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

“(5) EMPLOYER.—The term ‘employer’ means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

“(6) H-2A EMPLOYER.—The term ‘H-2A employer’ means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

“(7) H-2A WORKER.—The term ‘H-2A worker’ means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

“(8) JOB OPPORTUNITY.—The term ‘job opportunity’ means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

“(9) LAYS OFF.—

“(A) IN GENERAL.—The term ‘lays off’, with respect to a worker—

“(i) means to cause the worker’s loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility

(as described in section 218A(b)(4)(D)), or temporary layoffs due to weather, markets, or other temporary conditions; but

“(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

“(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee’s rights under a collective bargaining agreement or other employment contract.

“(10) REGULATORY DROUGHT.—The term ‘regulatory drought’ means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer’s access to water for irrigation purposes and reduces or limits the employer’s ability to produce an agricultural commodity, thereby reducing the need for labor.

“(11) SEASONAL.—Labor is performed on a ‘seasonal’ basis if—

“(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

“(B) from its nature, it may not be continuous or carried on throughout the year.

“(12) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.

“(13) TEMPORARY.—A worker is employed on a ‘temporary’ basis where the employment is intended not to exceed 10 months.

“(14) UNITED STATES WORKER.—The term ‘United States worker’ means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).”

(b) TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

“Sec. 218. H-2A employer applications

“Sec. 218A. H-2A employment requirements

“Sec. 218B. Procedure for admission and extension of stay of H-2A workers

“Sec. 218C. Worker protections and labor standards enforcement

“Sec. 218D. Definitions”.

Subtitle C—MISCELLANEOUS PROVISIONS

SEC. 231. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens under this title and the amendments made by this title, and a collection process for such fees from employers participating in the program provided under this title. Such fees shall be the only fees chargeable to employers for services provided under this title.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer’s application under section 218 of the Immigration and Nationality Act, as amended by section 221 of this Act, and sufficient to provide for the direct costs of providing services related to an employer’s authorization to employ eligible aliens pursuant to this title, to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the alien employment user fees shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out sections 218 and 218B of the Immigration and Nationality Act, as amended and added, respectively by section 221 of this Act, and the provisions of this title.

SEC. 232. REGULATIONS.

(a) REGULATIONS OF THE SECRETARY.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture on all regulations to implement the duties of the Secretary under this title and the amendments made by this title.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this title and the amendments made by this title.

(c) REGULATIONS OF THE SECRETARY OF LABOR.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this title and the amendments made by this title.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218A, 218B, 218C, and 218D of the Immigration and Nationality Act, as added by section 221 of this Act, shall take effect on the effective date of section 221 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 233. REPORTS TO CONGRESS.

(a) ANNUAL REPORT.—Not later than September 30 of each year, the Secretary shall submit a report to Congress that identifies, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), and the number of workers actually admitted, by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218B(e)(2) of such Act;

(3) the number of such aliens who departed the United States within the period specified in subsection 218B(d) of such Act;

(4) the number of aliens who applied for adjustment of status pursuant to section 211(a);

(5) the number of such aliens whose status was adjusted under section 211(a);

(6) the number of aliens who applied for permanent residence pursuant to section 211(c); and

(7) the number of such aliens who were approved for permanent residence pursuant to section 211(c).

(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment

of this Act, the Secretary shall prepare and submit to Congress a report that describes the measures being taken and the progress made in implementing this title.

SEC. 234. EFFECTIVE DATE.

Except as otherwise provided, sections 221 and 231 shall take effect 1 year after the date of the enactment of this Act.

SA 5022. Mr. CRAIG (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 7, after line 10, insert the following:

TITLE II—AGRICULTURAL JOB OPPORTUNITIES, BENEFITS, AND SECURITY

SEC. 201. SHORT TITLE.

This title may be cited as the “Agricultural Job Opportunities, Benefits, and Security Act of 2006” or the “AgJOBS Act of 2006”.

SEC. 202. DEFINITIONS.

In this title:

(1) **AGRICULTURAL EMPLOYMENT.**—The term “agricultural employment” means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) **BLUE CARD STATUS.**—The term “blue card status” means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 211(a).

(3) **DEPARTMENT.**—The term “Department” means the Department of Homeland Security.

(4) **EMPLOYER.**—The term “employer” means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(5) **JOB OPPORTUNITY.**—The term “job opportunity” means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

(6) **SECRETARY.**—Except as otherwise provided, the term “Secretary” means the Secretary of Homeland Security.

(7) **TEMPORARY.**—A worker is employed on a “temporary” basis where the employment is intended not to exceed 10 months.

(8) **UNITED STATES WORKER.**—The term “United States worker” means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(9) **WORK DAY.**—The term “work day” means any day in which the individual is employed 5.75 or more hours in agricultural employment.

Subtitle A—Pilot Program for Earned Status Adjustment of Agricultural Workers

SEC. 211. AGRICULTURAL WORKERS.

(a) **BLUE CARD PROGRAM.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary shall

confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2005;

(B) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act;

(C) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under subsection (e)(2); and

(D) has not been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

(2) **AUTHORIZED TRAVEL.**—An alien in blue card status has the right to travel abroad (including commutation from a residence abroad) in the same manner as an alien lawfully admitted for permanent residence.

(3) **AUTHORIZED EMPLOYMENT.**—An alien in blue card status shall be provided an “employment authorized” endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(4) **TERMINATION OF BLUE CARD STATUS.**—

(A) **IN GENERAL.**—The Secretary may terminate blue card status granted under this subsection only upon a determination under this title that the alien is deportable.

(B) **GROUND FOR TERMINATION OF BLUE CARD STATUS.**—Before any alien becomes eligible for adjustment of status under subsection (c), the Secretary may deny adjustment to permanent resident status and provide for termination of the blue card status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States;

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500; or

(IV) fails to perform the agricultural employment required under subsection (c)(1)(A)(i) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in subsection (c)(1)(A)(iii).

(5) **RECORD OF EMPLOYMENT.**—

(A) **IN GENERAL.**—Each employer of a worker granted status under this subsection shall annually—

(i) provide a written record of employment to the alien; and

(ii) provide a copy of such record to the Secretary.

(B) **SUNSET.**—The obligation under subparagraph (A) shall terminate on the date that is 6 years after the date of the enactment of this Act.

(6) **REQUIRED FEATURES OF BLUE CARD.**—The Secretary shall provide each alien granted blue card status and the spouse and children of each such alien residing in the United States with a card that contains—

(A) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(B) biometric identifiers, including fingerprints and a digital photograph; and

(C) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(7) **FINE.**—An alien granted blue card status shall pay a fine to the Secretary in an amount equal to \$100.

(8) **MAXIMUM NUMBER.**—The Secretary may issue not more than 1,500,000 blue cards during the 5-year period beginning on the date of the enactment of this Act.

(b) **RIGHTS OF ALIENS GRANTED BLUE CARD STATUS.**—

(1) **IN GENERAL.**—Except as otherwise provided under this subsection, an alien in blue card status shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) **DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.**—An alien in blue card status shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the alien is granted permanent resident status under subsection (c).

(3) **TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.**—

(A) **PROHIBITION.**—No alien granted blue card status may be terminated from employment by any employer during the period of blue card status except for just cause.

(B) **TREATMENT OF COMPLAINTS.**—

(i) **ESTABLISHMENT OF PROCESS.**—The Secretary shall establish a process for the receipt, initial review, and disposition of complaints by aliens granted blue card status who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(ii) **INITIATION OF ARBITRATION.**—If the Secretary finds that a complaint has been filed in accordance with clause (i) and there is reasonable cause to believe that the complainant was terminated without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(iii) **ARBITRATION PROCEEDINGS.**—The arbitrator shall conduct the proceeding in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including reinstatement, back pay, or front pay to the affected employee. Within 30 days from the conclusion of the arbitration proceeding, the arbitrator shall

transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(iv) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated an alien granted blue card status without just cause, the Secretary shall credit the alien for the number of days or hours of work lost for purposes of the requirement of subsection (c)(1).

(v) TREATMENT OF ATTORNEY'S FEES.—The parties shall bear the cost of their own attorney's fees involved in the litigation of the complaint.

(vi) NONEXCLUSIVE REMEDY.—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.

(vii) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

(C) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under subsection (a)(5) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed \$1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(c) ADJUSTMENT TO PERMANENT RESIDENCE.—

(1) AGRICULTURAL WORKERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall adjust the status of an alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(i) QUALIFYING EMPLOYMENT.—

(I) IN GENERAL.—Subject to subclause (II), the alien has performed at least—

(aa) 5 years of agricultural employment in the United States for at least 100 work days per year, during the 5-year period beginning on the date of the enactment of this Act; or

(bb) 3 years of agricultural employment in the United States for at least 150 work days per year, during the 3-year period beginning on the date of the enactment of this Act.

(II) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to meet the requirements of subclause (I) if the alien has performed 4 years of agricultural employment in the United States for at least 150 work days during 3 years of those 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of the enactment of this Act.

(ii) PROOF.—An alien may demonstrate compliance with the requirement under clause (i) by submitting—

(I) the record of employment described in subsection (a)(5); or

(II) such documentation as may be submitted under subsection (d)(3).

(iii) EXTRAORDINARY CIRCUMSTANCES.—In determining whether an alien has met the requirement under clause (i)(I), the Secretary may credit the alien with not more than 12 additional months to meet the requirement under clause (i) if the alien was unable to work in agricultural employment due to—

(I) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

(II) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records; or

(III) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time.

(iv) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of the enactment of this Act.

(v) FINE.—The alien pays a fine to the Secretary in an amount equal to \$400.

(B) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien adjustment to permanent resident status, and provide for termination of the blue card status granted such alien, if—

(i) the Secretary finds by a preponderance of the evidence that the adjustment to blue card status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

(C) GROUNDS FOR REMOVAL.—Any alien granted blue card status who does not apply for adjustment of status under this subsection before the expiration of the application period described in subparagraph (A)(iv), or who fails to meet the other requirements of subparagraph (A) by the end of the applicable period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(D) PAYMENT OF TAXES.—

(i) IN GENERAL.—Not later than the date on which an alien's status is adjusted under this subsection, the alien shall establish the payment of any applicable Federal tax liability by establishing that—

(I) no such tax liability exists;

(II) all outstanding liabilities have been paid; or

(III) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(ii) APPLICABLE FEDERAL TAX LIABILITY.—For purposes of clause (i), the term "applicable Federal tax liability" means liability for Federal taxes, including penalties and interest, owed for any year during the period of employment required under paragraph (1)(A) for which the statutory period for assessment of any deficiency for such taxes has not expired.

(iii) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all taxes required by this subparagraph.

(2) SPOUSES AND MINOR CHILDREN.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted status under paragraph (1), including any individual who was a minor child on the date such alien was granted blue card status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(B) TREATMENT OF SPOUSES AND MINOR CHILDREN BEFORE ADJUSTMENT OF STATUS.—

(i) REMOVAL.—The spouse and any minor child of an alien granted blue card status may not be removed while such alien maintains such status, except as provided in subparagraph (C).

(ii) TRAVEL.—The spouse and any minor child of an alien granted blue card status may travel outside the United States in the same manner as an alien lawfully admitted for permanent residence.

(iii) EMPLOYMENT.—The spouse of an alien granted blue card status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains blue card status.

(C) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.—The Secretary may deny an alien spouse or child adjustment of status under subparagraph (A) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(i) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500.

(d) APPLICATIONS.—

(1) TO WHOM MAY BE MADE.—The Secretary shall provide that—

(A) applications for blue card status may be filed—

(i) with the Secretary, but only if the applicant is represented by an attorney or a non-profit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(ii) with a qualified designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Secretary; and

(B) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—

(A) IN GENERAL.—For purposes of receiving applications under subsection (a), the Secretary—

(i) shall designate qualified farm labor organizations and associations of employers; and

(ii) may designate such other persons as the Secretary determines are qualified and have substantial experience, demonstrate competence, and have traditional long-term

involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act, Public Law 89-732, Public Law 95-145, or the Immigration Reform and Control Act of 1986.

(B) REFERENCES.—Organizations, associations, and persons designated under subparagraph (A) are referred to in this title as “qualified designated entities”.

(3) PROOF OF ELIGIBILITY.—

(A) IN GENERAL.—An alien may establish that the alien meets the requirement of subsection (a)(1)(A) or (c)(1)(A) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(B) DOCUMENTATION OF WORK HISTORY.—

(i) BURDEN OF PROOF.—An alien applying for status under subsection (a)(1) or (c)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days (as required under subsection (a)(1)(A) or (c)(1)(A)).

(ii) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(iii) SUFFICIENT EVIDENCE.—An alien can meet the burden of proof under clause (i) to establish that the alien has performed the work described in subsection (a)(1)(A) or (c)(1)(A) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(4) TREATMENT OF APPLICATIONS BY QUALIFIED DESIGNATED ENTITIES.—Each qualified designated entity shall agree to forward to the Secretary applications filed with it in accordance with paragraph (1)(A)(ii) but shall not forward to the Secretary applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Secretary. Upon the request of the alien, a qualified designated entity shall assist the alien in obtaining documentation of the work history of the alien.

(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this subsection by qualified designated entities operating under this subsection are confidential and the Secretary shall not have access to such files or records relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6).

(6) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, neither the Secretary, nor any other official or employee of the Department, or a bureau or agency of the Department, may—

(i) use the information furnished by the applicant pursuant to an application filed under this section, the information provided to the applicant by a person designated under paragraph (2)(A), or any information provided by an employer or former employer, for any purpose other than to make a determination on the application, or for enforcement of paragraph (7);

(ii) make any publication whereby the information furnished by any particular individual can be identified; or

(iii) permit anyone other than the sworn officers and employees of the Department, or a bureau or agency of the Department, or,

with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(B) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this section, or any other information derived from such furnished information, to—

(i) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

(ii) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(C) CONSTRUCTION.—

(i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(ii) CRIMINAL CONVICTIONS.—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

(D) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to a fine in an amount not to exceed \$10,000.

(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(A) CRIMINAL PENALTY.—Any person who—

(i) files an application for status under subsection (a) or (c) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(B) INADMISSIBILITY.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(8) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104-134 (110 Stat. 1321-53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for adjustment of status under this section.

(9) APPLICATION FEES.—

(A) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(i) shall be charged for the filing of applications for status under subsections (a) and (c); and

(ii) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

(C) DISPOSITION OF FEES.—

(i) IN GENERAL.—There is established in the general fund of the Treasury a separate ac-

count, which shall be known as the “Agricultural Worker Immigration Status Adjustment Account”. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under subparagraph (A)(i).

(ii) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the “Agricultural Worker Immigration Status Adjustment Account” shall remain available to the Secretary until expended for processing applications for status under subsections (a) and (c).

(e) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under subsection (a)(1)(C) or an alien's eligibility for adjustment of status under subsection (c)(1)(B)(ii)(I), the following rules shall apply:

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(ii) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under clause (i).

(iii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for status under this section by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(f) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(B) and who can establish a nonfrivolous case of eligibility for blue card status (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for blue card status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an “employment authorized” endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for blue card status during the application period described in subsection (a)(1)(B),

including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit for such purpose.

(g) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for status under subsection (a) or (c) except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(h) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—Beginning not later than the first day of the application period described in subsection (a)(1)(B), the Secretary, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits that aliens may receive under this section and the requirements to be satisfied to obtain such benefits.

(i) REGULATIONS.—The Secretary shall issue regulations to implement this section not later than the first day of the seventh month that begins after the date of enactment of this Act.

(j) EFFECTIVE DATE.—This section shall take effect on the date that regulations are issued implementing this section on an interim or other basis.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to implement this section, including any sums needed for costs associated with the initiation of such implementation, for fiscal years 2007 and 2008.

SEC. 212. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking "or" at the end;

(2) in subparagraph (C), by inserting "or" at the end;

(3) by inserting after subparagraph (C) the following:

"(D) who is granted blue card status under the Agricultural Job Opportunity, Benefits, and Security Act of 2006,"; and

(4) by striking "1990." and inserting "1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted blue card status.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

Subtitle B—Reform of H-2A Worker Program SEC. 221. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by striking section 218 and inserting the following:

"SEC. 218. H-2A EMPLOYER APPLICATIONS.

"(a) APPLICATIONS TO THE SECRETARY OF LABOR.—

"(1) IN GENERAL.—No alien may be admitted to the United States as an H-2A worker, or otherwise provided status as an H-2A worker, unless the employer has filed with the Secretary of Labor an application containing—

"(A) the assurances described in subsection (b);

"(B) a description of the nature and location of the work to be performed;

"(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

"(D) the number of job opportunities in which the employer seeks to employ the workers.

"(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

"(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

"(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

"(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

"(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H-2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

"(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

"(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

"(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

"(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's

workers' compensation law for comparable employment.

"(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

"(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H-2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

"(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

"(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

"(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H-2A workers.

"(E) REQUIREMENTS FOR PLACEMENT OF NON-IMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

"(i) the nonimmigrant performs duties in whole or in part at 1 or more work sites owned, operated, or controlled by such other employer;

"(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

"(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H-2A workers.

"(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

"(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

"(H) EMPLOYMENT OF UNITED STATES WORKERS.—

"(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H-2A nonimmigrant is, or H-2A nonimmigrants are, sought:

"(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended

employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

“(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H-2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on ‘America's Job Bank’ or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

“(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H-2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

“(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H-2A workers could not reasonably have been foreseen.

“(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or non-immigrants are, sought and who will be available at the time and place of need.

“(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the foreign worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the foreign worker who is in the job was hired has elapsed, subject to the following requirements:

“(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H-2A workers in order to force the hiring of United States workers under this clause.

“(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

“(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending

with the job service that offer similar job opportunities in the area of intended employment.

“(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

“(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

“(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218A and 218B.

“(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

“(d) WITHDRAWAL OF APPLICATIONS.—

“(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

“(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

“(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H-2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

“(e) REVIEW AND APPROVAL OF APPLICATIONS.—

“(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or work site, a copy of each such application (and such accompanying documents as are necessary).

“(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

“(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under this subsection. Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

“(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inac-

curacies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application

“SEC. 218A. H-2A EMPLOYMENT REQUIREMENTS.

“(a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H-2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H-2A workers.

“(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

“(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

“(A) IN GENERAL.—An employer applying under section 218(a) for H-2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

“(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

“(C) FAMILY HOUSING.—If it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

“(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

“(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

“(F) CHARGES FOR HOUSING.—

“(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

“(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar

incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

“(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

“(i) IN GENERAL.—If the requirement under clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

“(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H-2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

“(iii) AMOUNT OF ALLOWANCE.—

“(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2 bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

“(2) REIMBURSEMENT OF TRANSPORTATION.—

“(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

“(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employ-

ment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

“(C) LIMITATION.—

“(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

“(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

“(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

“(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

“(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

“(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORK SITE.—The employer shall provide transportation between the worker's living quarters and the employer's work site without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

“(3) REQUIRED WAGES.—

“(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

“(B) LIMITATION.—Effective on the date of the enactment of the Agricultural Job Opportunities, Benefits, and Security Act of 2006 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

“(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

“(i) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to this section before the first March 1 that is not less than 3 years after the date of enactment of this section, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2003, had been annually adjusted, beginning on March 1, 2006, by the lesser of—

“(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

“(II) 4 percent.

“(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not less than 4 years after the date of enactment of this section, and each March 1 thereafter,

the adverse effect wage rate then in effect for each State shall be adjusted by the lesser of—

“(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

“(II) 4 percent.

“(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

“(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

“(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

“(i) the worker's total earnings for the pay period;

“(ii) the worker's hourly rate of pay, piece rate of pay, or both;

“(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the three-quarters guarantee described in paragraph (4);

“(iv) the hours actually worked by the worker;

“(v) an itemization of the deductions made from the worker's wages; and

“(vi) if piece rates of pay are used, the units produced daily.

“(G) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2008, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

“(i) whether the employment of H-2A or unauthorized aliens in the United States agricultural work force has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

“(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H-2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H-2A workers in those occupations;

“(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H-2A workers are employed from falling below the wage level that would have prevailed in the absence of H-2A employment;

“(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

“(v) recommendations for future wage protection under this section.

“(H) COMMISSION ON WAGE STANDARDS.—

“(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H-2A program (in this subparagraph referred to as the ‘Commission’).

“(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

“(I) 4 representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

“(II) 4 representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

“(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

“(I) whether the employment of H-2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

“(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H-2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H-2A workers in those occupations;

“(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H-2A workers are employed from falling below the wage level that would have prevailed in the absence of H-2A employment;

“(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

“(V) recommendations for future wage protection under this section.

“(iv) FINAL REPORT.—Not later than December 31, 2008, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

“(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

“(4) GUARANTEE OF EMPLOYMENT.—

“(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least three-fourths of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H-2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

“(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

“(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the ‘three-fourths guarantee’ described in subparagraph (A).

“(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation,

or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

“(5) MOTOR VEHICLE SAFETY.—

“(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

“(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H-2A employer that uses or causes to be used any vehicle to transport an H-2A worker within the United States.

“(ii) DEFINED TERM.—In this paragraph, the term ‘uses or causes to be used’—

“(I) applies only to transportation provided by an H-2A employer to an H-2A worker, or by a farm labor contractor to an H-2A worker at the request or direction of an H-2A employer; and

“(II) does not apply to—

“(aa) transportation provided, or transportation arrangements made, by an H-2A worker, unless the employer specifically requested or arranged such transportation; or

“(bb) car pooling arrangements made by H-2A workers themselves, using 1 of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

“(iii) CLARIFICATION.—Providing a job offer to an H-2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H-2A worker by an H-2A employer, shall not constitute an arrangement of, or participation in, such transportation.

“(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H-2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

“(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

“(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

“(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

“(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

“(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

“(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership,

operation, or causing to be operated, of any vehicle used to transport any H-2A worker.

“(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

“(iii) EFFECT OF WORKERS' COMPENSATION COVERAGE.—If the employer of any H-2A worker provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

“(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

“(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

“(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

“(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer's application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

“(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218B shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

“SEC. 218B. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H-2A WORKERS.

“(a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H-2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

“(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

“(c) CRITERIA FOR ADMISSIBILITY.—

“(1) IN GENERAL.—An H-2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218A, and the alien is not ineligible under paragraph (2).

“(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

“(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien’s authorized period of admission under this section has expired; or

“(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

“(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

“(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H-2A status, but may not be granted that status in the United States.

“(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

“(d) PERIOD OF ADMISSION.—

“(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the work site and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

“(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

“(B) the total period of employment, including such 14-day period, may not exceed 10 months.

“(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

“(e) ABANDONMENT OF EMPLOYMENT.—

“(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H-2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

“(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H-2A worker prematurely abandons employment.

“(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H-2A worker who violates any term or condition of the worker’s nonimmigrant status.

“(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

“(f) REPLACEMENT OF ALIEN.—

“(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H-2A worker—

“(A) who abandons or prematurely terminates employment; or

“(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

“(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

“(g) IDENTIFICATION DOCUMENT.—

“(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify such person’s proper identity.

“(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

“(A) The document shall be capable of reliably determining whether—

“(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

“(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

“(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H-2A worker.

“(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

“(C) The document shall—

“(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

“(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

“(h) EXTENSION OF STAY OF H-2A ALIENS IN THE UNITED STATES.—

“(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H-2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien’s stay and a change in the alien’s employment.

“(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien’s stay—

“(A) for a period of more than 10 months; or

“(B) to a date that is more than 3 years after the date of the alien’s last admission to the United States under this section.

“(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

“(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

“(B) DEFINITION.—For purposes of subparagraph (A), the term ‘file’ means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

“(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer’s petition to the alien, who shall keep the petition with the alien’s identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

“(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien’s authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

“(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien’s authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

“(5) LIMITATION ON AN INDIVIDUAL’S STAY IN STATUS.—

“(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H-2A worker (including any extensions) is 3 years.

“(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

“(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H-2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H-2A worker unless the alien has remained outside the United States for a continuous period equal to at least $\frac{1}{2}$ the duration of the alien’s previous period of authorized status as an H-2A worker (including any extensions).

“(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien’s period of authorized status as an H-2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H-2A worker.

“(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—Notwithstanding any provision of the Agricultural Job Opportunities, Benefits, and Security Act of 2006, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a shepherd, goat herder, or dairy worker—

“(1) may be admitted for an initial period of 12 months;

“(2) subject to subsection (j)(5), may have such initial period of admission extended for a period of up to 3 years; and

“(3) shall not be subject to the requirements of subsection (h)(5) (relating to periods of absence from the United States).

“(j) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—

“(1) ELIGIBLE ALIEN.—For purposes of this subsection, the term ‘eligible alien’ means an alien—

“(A) having nonimmigrant status under section 101(a)(15)(H)(ii)(a) based on employment as a shepherd, goat herder, or dairy worker;

“(B) who has maintained such nonimmigrant status in the United States for a

cumulative total of 36 months (excluding any period of absence from the United States); and

“(C) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(iii).

“(2) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

“(A) the alien’s employer on behalf of an eligible alien; or

“(B) the eligible alien.

“(3) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)(3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa described in paragraph (1)(C) for an eligible alien.

“(4) EFFECT OF PETITION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such a petition, shall not constitute evidence of an alien’s ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(a).

“(5) EXTENSION OF STAY.—The Secretary of Homeland Security shall extend the stay of an eligible alien having a pending or approved classification petition described in paragraph (2) in 1-year increments until a final determination is made on the alien’s eligibility for adjustment of status to that of an alien lawfully admitted for permanent residence.

“(6) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

“SEC. 218C. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.

“(a) ENFORCEMENT AUTHORITY.—

“(1) INVESTIGATION OF COMPLAINTS.—

“(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner’s failure to meet a condition specified in section 218(b), or an employer’s misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

“(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (G). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

“(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a

condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$1,000 per violation) as the Secretary of Labor determines to be appropriate; and

“(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

“(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$5,000 per violation) as the Secretary of Labor determines to be appropriate;

“(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

“(iii) the Secretary may disqualify the employer from the employment of H-2A workers for a period of 2 years.

“(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer’s application under section 218(a) or during the period of 30 days preceding such period of employment—

“(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed \$15,000 per violation) as the Secretary of Labor determines to be appropriate; and

“(ii) the Secretary may disqualify the employer from the employment of H-2A workers for a period of 3 years.

“(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of \$90,000.

“(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218A(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H-2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218A(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

“(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under

any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218A.

“(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H-2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

“(1) The providing of housing or a housing allowance as required under section 218A(b)(1).

“(2) The reimbursement of transportation as required under section 218A(b)(2).

“(3) The payment of wages required under section 218A(b)(3) when due.

“(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218A(c), compliance with which shall be governed by the provisions of such laws.

“(5) The guarantee of employment required under section 218A(b)(4).

“(6) The motor vehicle safety requirements under section 218A(b)(5).

“(7) The prohibition of discrimination under subsection (d)(2).

“(c) PRIVATE RIGHT OF ACTION.—

“(1) MEDIATION.—Upon the filing of a complaint by an H-2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

“(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H-2A workers and agricultural employers without charge to the parties.

“(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other non-binding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

“(C) AUTHORIZATION.—

“(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service \$500,000 for each fiscal year to carry out this section.

“(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

“(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H-2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under

this Act, not later than 3 years after the date the violation occurs.

“(3) ELECTION.—An H-2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

“(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H-2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

“(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

“(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

“(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

“(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

“(7) WORKERS’ COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

“(A) Notwithstanding any other provision of this section, where a State’s workers’ compensation law is applicable and coverage is provided for an H-2A worker, the workers’ compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State’s workers’ compensation law.

“(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

“(i) a recovery under a State workers’ compensation law; or

“(ii) rights conferred under a State workers’ compensation law.

“(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers’ compensation law that the workers’ compensation law is not applicable to a claim for bodily injury or death of an H-2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers’ compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H-2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers’ compensation law.

“(9) PRECLUSIVE EFFECT.—Any settlement by an H-2A worker and an H-2A employer or any person reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any

Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

“(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H-2A employer on behalf of an H-2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

“(d) DISCRIMINATION PROHIBITED.—

“(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218A or any rule or regulation pertaining to section 218 or 218A, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer’s compliance with the requirements of section 218 or 218A or any rule or regulation pertaining to either of such sections.

“(2) DISCRIMINATION AGAINST H-2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H-2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

“(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H-2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

“(f) ROLE OF ASSOCIATIONS.—

“(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218A, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

“(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that

an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

“SEC. 218D. DEFINITIONS.

“For purposes of this section and section 218, 218A, 218B, and 218C:

“(1) AGRICULTURAL EMPLOYMENT.—The term ‘agricultural employment’ means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a).

“(2) BONA FIDE UNION.—The term ‘bona fide union’ means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

“(3) DISPLACE.—The term ‘displace’, in the case of an application with respect to 1 or more H-2A workers by an employer, means laying off a United States worker from a job for which the H-2A worker or workers is or are sought.

“(4) ELIGIBLE.—The term ‘eligible’, when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

“(5) EMPLOYER.—The term ‘employer’ means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

“(6) H-2A EMPLOYER.—The term ‘H-2A employer’ means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

“(7) H-2A WORKER.—The term ‘H-2A worker’ means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

“(8) JOB OPPORTUNITY.—The term ‘job opportunity’ means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

“(9) LAYS OFF.—

“(A) IN GENERAL.—The term ‘lays off’, with respect to a worker—

“(i) means to cause the worker’s loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218A(b)(4)(D)), or temporary layoffs due to weather, markets, or other temporary conditions; but

“(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

“(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee’s rights under a collective bargaining agreement or other employment contract.

“(10) REGULATORY DROUGHT.—The term ‘regulatory drought’ means a decision subsequent to the filing of the application under

section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

“(11) SEASONAL.—Labor is performed on a ‘seasonal’ basis if—

“(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

“(B) from its nature, it may not be continuous or carried on throughout the year.

“(12) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.

“(13) TEMPORARY.—A worker is employed on a ‘temporary’ basis where the employment is intended not to exceed 10 months.

“(14) UNITED STATES WORKER.—The term ‘United States worker’ means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).”

(b) TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

“Sec. 218. H-2A employer applications

“Sec. 218A. H-2A employment requirements

“Sec. 218B. Procedure for admission and extension of stay of H-2A workers

“Sec. 218C. Worker protections and labor standards enforcement

“Sec. 218D. Definitions”.

Subtitle C—Miscellaneous Provisions

SEC. 231. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens under this title and the amendments made by this title, and a collection process for such fees from employers participating in the program provided under this title. Such fees shall be the only fees chargeable to employers for services provided under this title.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer's application under section 218 of the Immigration and Nationality Act, as amended by section 221 of this Act, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ eligible aliens pursuant to this title, to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the alien employment user fees shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the

costs of carrying out sections 218 and 218B of the Immigration and Nationality Act, as amended and added, respectively by section 221 of this Act, and the provisions of this title.

SEC. 232. REGULATIONS.

(a) REGULATIONS OF THE SECRETARY.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture on all regulations to implement the duties of the Secretary under this title and the amendments made by this title.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this title and the amendments made by this title.

(c) REGULATIONS OF THE SECRETARY OF LABOR.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this title and the amendments made by this title.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218A, 218B, 218C, and 218D of the Immigration and Nationality Act, as added by section 221 of this Act, shall take effect on the effective date of section 221 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 233. REPORTS TO CONGRESS.

(a) ANNUAL REPORT.—Not later than September 30 of each year, the Secretary shall submit a report to Congress that identifies, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), and the number of workers actually admitted, by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218B(e)(2) of such Act;

(3) the number of such aliens who departed the United States within the period specified in subsection 218B(d) of such Act;

(4) the number of aliens who applied for adjustment of status pursuant to section 211(a);

(5) the number of such aliens whose status was adjusted under section 211(a);

(6) the number of aliens who applied for permanent residence pursuant to section 211(c); and

(7) the number of such aliens who were approved for permanent residence pursuant to section 211(c).

(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress a report that describes the measures being taken and the progress made in implementing this title.

SEC. 234. EFFECTIVE DATE.

Except as otherwise provided, sections 221 and 231 shall take effect 1 year after the date of the enactment of this Act.

SA 5023. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 5, between lines 8 and 9, insert the following:

“(D) LIMITATION ON REQUIREMENTS.—Notwithstanding subparagraph (A), nothing in

this paragraph shall require the Secretary to provide fencing and install additional physical barriers, roads, lighting, cameras, and sensors in a location along an international border of the United States, if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain operational control over the international border at such location.”.

SA 5024. Mr. MCCONNELL (for Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. HATCH, Mr. ROCKEFELLER, and Ms. SNOWE)) proposed an amendment to the bill S. 3525, to reauthorize the safe and stable families program, and for other purposes; as follows:

In lieu of the language inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Child and Family Services Improvement Act of 2006”.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) For Federal fiscal year 2004, child protective services (CPS) staff nationwide reported investigating or assessing an estimated 3,000,000 allegations of child maltreatment, and determined that 872,000 children had been abused or neglected by their parents or other caregivers.

(2) Combined, the Child Welfare Services (CWS) and Promoting Safe and Stable Families (PSSF) programs provide States about \$700,000,000 per year, the largest source of targeted Federal funding in the child protection system for services to ensure that children are not abused or neglected and, whenever possible, help children remain safely with their families.

(3) A 2003 report by the Government Accountability Office (GAO) reported that little research is available on the effectiveness of activities supported by CWS funds—evaluations of services supported by PSSF funds have generally shown little or no effect.

(4) Further, the Department of Health and Human Services recently completed initial Child and Family Service Reviews (CFSRs) in each State. No State was in full compliance with all measures of the CFSRs. The CFSRs also revealed that States need to work to prevent repeat abuse and neglect of children, improve services provided to families to reduce the risk of future harm (including by better monitoring the participation of families in services), and strengthen upfront services provided to families to prevent unnecessary family break-up and protect children who remain at home.

(5) Federal policy should encourage States to invest their CWS and PSSF funds in services that promote and protect the welfare of children, support strong, healthy families, and reduce the reliance on out-of-home care, which will help ensure all children are raised in safe, loving families.

(6) CFSRs also found a strong correlation between frequent caseworker visits with children and positive outcomes for these children, such as timely achievement of permanency and other indicators of child well-being.

(7) However, a December 2005 report by the Department of Health and Human Services Office of Inspector General found that only 20 States were able to produce reports to show whether caseworkers actually visited children in foster care on at least a monthly basis, despite the fact that nearly all States had written standards suggesting monthly visits were State policy.

(8) A 2003 GAO report found that the average tenure for a child welfare caseworker is less than 2 years and this level of turnover

negatively affects safety and permanency for children.

(9) Targeting CWS and PSSF funds to ensure children in foster care are visited on at least a monthly basis will promote better outcomes for vulnerable children, including by preventing further abuse and neglect.

(10) According to the Office of Applied Studies of the Substance Abuse and Mental Health Services Administration, the annual number of new uses of Methamphetamine, also known as "meth," has increased 72 percent over the past decade. According to a study conducted by the National Association of Counties which surveyed 500 county law enforcement agencies in 45 states, 88 percent of the agencies surveyed reported increases in meth related arrests starting 5 years ago.

(11) According to the 2004 National Survey on Drug Use and Health, nearly 12,000,000 Americans have tried methamphetamine. Meth making operations have been uncovered in all 50 states, but the most widespread abuse has been concentrated in the western, southwestern, and Midwestern United States.

(12) Methamphetamine abuse is on the increase, particularly among women of child-bearing age. This is having an impact on child welfare systems in many States. According to a survey administered by the National Association of Counties ("The Impact of Meth on Children"), conducted in 300 counties in 13 states, meth is a major cause of child abuse and neglect. Forty percent of all the child welfare officials in the survey reported an increase in out-of-home placements because of meth in 2005.

(13) It is appropriate also to target PSSF funds to address this issue because of the unique strain the meth epidemic puts on child welfare agencies. Outcomes for children affected by meth are enhanced when services provided by law enforcement, child welfare and substance abuse agencies are integrated.

SEC. 3. REAUTHORIZATION OF THE PROMOTING SAFE AND STABLE FAMILIES PROGRAM.

(a) FUNDING OF MANDATORY GRANTS AT \$345 MILLION PER FISCAL YEAR.—Effective October 1, 2006, section 436(a) of the Social Security Act (42 U.S.C. 629f(a)) is amended by striking "fiscal year 2006." and all that follows and inserting "each of fiscal years 2007 through 2011".

(b) FUNDING OF DISCRETIONARY GRANTS.—Section 437(a) of such Act (42 U.S.C. 629g(a)) is amended by striking "2002 through 2006" and inserting "2007 through 2011".

(c) AVAILABILITY OF PROMOTING SAFE AND STABLE FAMILIES RESOURCES FOR FISCAL YEAR 2006.—

(1) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services \$40,000,000 for fiscal year 2006 to carry out section 436 of the Social Security Act, in addition to any amount otherwise made available for fiscal year 2006 to carry out such section.

(2) AVAILABILITY OF FUNDS.—Notwithstanding sections 434(b)(2) and 436(b)(3) of such Act, the amount appropriated under paragraph (1) of this subsection—

(A) shall remain available for expenditure through fiscal year 2009 solely for the purpose described in section 436(b)(4)(B)(i) of such Act;

(B) shall not be used to supplant any Federal funds paid under part E of title IV of such Act that could be used for that purpose; and

(C) shall not be made available to any Indian tribe or tribal consortium.

(d) ELIMINATION OF FINDINGS.—Section 430 of such Act (42 U.S.C. 629) is amended by

striking all through "(b) PURPOSE.—The purpose" and inserting the following:

"SEC. 430. PURPOSE.

"The purpose".

(e) ANNUAL BUDGET REQUESTS, SUMMARIES, AND EXPENDITURE REPORTS.—

(1) IN GENERAL.—Section 432(a)(8) of such Act (42 U.S.C. 629b(a)(8)) is amended—

(A) by inserting "(A)" after "(8)"; and

(B) by adding at the end the following:

"(B) provides that, not later than June 30 of each year, the State will submit to the Secretary—

"(i) copies of forms CFS 101—Part I and CFS 101—Part II (or any successor forms) that report on planned child and family services expenditures by the agency for the immediately succeeding fiscal year; and

"(ii) copies of forms CFS 101—Part I and CFS 101—Part II (or any successor forms) that provide, with respect to the programs authorized under this subpart and subpart 1 and, at State option, other programs included on such forms, for the most recent preceding fiscal year for which reporting of actual expenditures is complete—

"(I) the numbers of families and of children served by the State agency;

"(II) the population served by the State agency;

"(III) the geographic areas served by the State agency; and

"(IV) the actual expenditures of funds provided to the State agency; and".

(2) ANNUAL SUBMISSION OF STATE REPORTS TO CONGRESS.—Section 432 of such Act (42 U.S.C. 629b) is amended by adding at the end the following:

"(c) ANNUAL SUBMISSION OF STATE REPORTS TO CONGRESS.—The Secretary shall compile the reports required under subsection (a)(8)(B) and, not later than September 30 of each year, submit such compilation to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate."

(3) EFFECTIVE DATE; INITIAL DEADLINES FOR SUBMISSIONS.—The amendments made by this subsection take effect on the date of enactment of this Act. Each State with an approved plan under subpart 1 or 2 of part B of title IV of the Social Security Act shall make its initial submission of the forms required under section 432(a)(8)(B) of the Social Security Act to the Secretary of Health and Human Services by June 30, 2007, and the Secretary of Health and Human Services shall submit the first compilation required under section 432(c) of the Social Security Act by September 30, 2007.

(f) LIMITATION ON ADMINISTRATIVE COST REIMBURSEMENT.—

(1) IN GENERAL.—Section 434 of such Act (42 U.S.C. 629d) is amended—

(A) in subsection (a), by inserting ", subject to subsection (d)," after "shall"; and

(B) by adding at the end the following:

"(d) LIMITATION ON REIMBURSEMENT FOR ADMINISTRATIVE COSTS.—The Secretary shall not make a payment to a State under this section with respect to expenditures for administrative costs during a fiscal year, to the extent that the total amount of the expenditures exceeds 10 percent of the total expenditures of the State during the fiscal year under the State plan approved under section 432."

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to expenditures made on or after October 1, 2007.

SEC. 4. TARGETING OF PROMOTING SAFE AND STABLE FAMILIES PROGRAM RESOURCES.

(a) SUPPORT FOR MONTHLY CASEWORKER VISITS.—

(1) RESERVATION AND USE OF FUNDS.—Section 436(b) of the Social Security Act (42

U.S.C. 629f(b)) is amended by adding at the end the following:

"(4) SUPPORT FOR MONTHLY CASEWORKER VISITS.—

"(A) RESERVATION.—The Secretary shall reserve for allotment in accordance with section 433(e)—

"(i) \$5,000,000 for fiscal year 2008;

"(ii) \$10,000,000 for fiscal year 2009; and

"(iii) \$20,000,000 for each of fiscal years 2010 and 2011.

"(B) USE OF FUNDS.—

"(i) IN GENERAL.—A State to which an amount is paid from amounts reserved under subparagraph (A) shall use the amount to support monthly caseworker visits with children who are in foster care under the responsibility of the State, with a primary emphasis on activities designed to improve caseworker retention, recruitment, training, and ability to access the benefits of technology.

"(ii) NONSUPPLANTATION.—A State to which an amount is paid from amounts reserved pursuant to subparagraph (A) shall not use the amount to supplant any Federal funds paid to the State under part E that could be used as described in clause (i)."

(2) ALLOTMENT OF FUNDS.—Section 433 of such Act (42 U.S.C. 629c) is amended—

(A) in subsection (d), by inserting "subsection (a), (b), or (c) of" before "this section" the 1st and 2nd places it appears; and

(B) by adding at the end the following:

"(e) ALLOTMENT OF FUNDS RESERVED TO SUPPORT MONTHLY CASEWORKER VISITS.—

"(1) TERRITORIES.—From the amount reserved pursuant to section 436(b)(4)(A) for any fiscal year, the Secretary shall allot to each jurisdiction specified in subsection (b) of this section, that has provided to the Secretary such documentation as may be necessary to verify that the jurisdiction has complied with section 436(b)(4)(B)(ii) during the fiscal year, an amount determined in the same manner as the allotment to each of such jurisdictions is determined under section 423 (without regard to the initial allotment of \$70,000 to each State).

"(2) OTHER STATES.—From the amount reserved pursuant to section 436(b)(4)(A) for any fiscal year that remains after applying paragraph (1) of this subsection for the fiscal year, the Secretary shall allot to each State (other than an Indian tribe) not specified in subsection (b) of this section, that has provided to the Secretary such documentation as may be necessary to verify that the State has complied with section 436(b)(4)(B)(ii) during the fiscal year, an amount equal to such remaining amount multiplied by the food stamp percentage of the State (as defined in subsection (c)(2) of this section) for the fiscal year, except that in applying subsection (c)(2)(A) of this section, 'subsection (e)(2)' shall be substituted for 'such paragraph (1)'."

(3) PAYMENTS TO STATES.—Section 434(a) of such Act (42 U.S.C. 629d(a)), as amended by section 3(f)(1) of this Act, is amended by striking "the lesser of—" and all that follows and inserting the following: "the sum of—

"(1) the lesser of—

"(A) 75 percent of the total expenditures by the State for activities under the plan during the fiscal year or the immediately succeeding fiscal year; or

"(B) the allotment of the State under subsection (a), (b), or (c) of section 433, whichever is applicable, for the fiscal year; and

"(2) the lesser of—

"(A) 75 percent of the total expenditures by the State in accordance with section 436(b)(4)(B) during the fiscal year or the immediately succeeding fiscal year; or

"(B) the allotment of the State under section 433(e) for the fiscal year."

(b) SUPPORT FOR TARGETED GRANTS TO INCREASE THE WELL BEING OF, AND TO IMPROVE THE PERMANENCY OUTCOMES FOR, CHILDREN AFFECTED BY METHAMPHETAMINE OR OTHER SUBSTANCE ABUSE.—

(1) RESERVATION OF FUNDS.—Section 436(b) of such Act (42 U.S.C. 629f(b)), as amended by subsection (a)(1) of this section, is amended by adding at the end the following:

“(5) REGIONAL PARTNERSHIP GRANTS.—The Secretary shall reserve for awarding grants under section 437(f)—

“(A) \$40,000,000 for fiscal year 2007;

“(B) \$35,000,000 for fiscal year 2008;

“(C) \$30,000,000 for fiscal year 2009; and

“(D) \$20,000,000 for each of fiscal years 2010 and 2011.”.

(2) TARGETED GRANTS.—

(A) IN GENERAL.—Section 437 of such Act (42 U.S.C. 629g) is amended by adding at the end the following:

“(f) TARGETED GRANTS TO INCREASE THE WELL BEING OF, AND TO IMPROVE THE PERMANENCY OUTCOMES FOR, CHILDREN AFFECTED BY METHAMPHETAMINE OR OTHER SUBSTANCE ABUSE.—

“(1) PURPOSE.—The purpose of this subsection is to authorize the Secretary to make competitive grants to regional partnerships to provide, through interagency collaboration and integration of programs and services, services and activities that are designed to increase the well-being of, improve permanency outcomes for, and enhance the safety of children who are in an out-of-home placement or are at risk of being placed in an out-of-home placement as a result of a parent's or caretaker's methamphetamine or other substance abuse.

“(2) REGIONAL PARTNERSHIP DEFINED.—

“(A) IN GENERAL.—In this subsection, the term ‘regional partnership’ means a collaborative agreement (which may be established on an interstate or intrastate basis) entered into by at least 2 of the following:

“(i) The State child welfare agency that is responsible for the administration of the State plan under this part and part E.

“(ii) The State agency responsible for administering the substance abuse prevention and treatment block grant provided under subpart II of part B of title XIX of the Public Health Service Act.

“(iii) An Indian tribe or tribal consortium.

“(iv) Nonprofit child welfare service providers.

“(v) For-profit child welfare service providers.

“(vi) Community health service providers.

“(vii) Community mental health providers.

“(viii) Local law enforcement agencies.

“(ix) Judges and court personnel.

“(x) Juvenile justice officials.

“(xi) School personnel.

“(xii) Tribal child welfare agencies (or a consortia of such agencies).

“(xiii) Any other providers, agencies, personnel, officials, or entities that are related to the provision of child and family services under this subpart.

“(B) REQUIREMENTS.—

“(i) STATE CHILD WELFARE AGENCY PARTNER.—Subject to clause (ii)(I), a regional partnership entered into for purposes of this subsection shall include the State child welfare agency that is responsible for the administration of the State plan under this part and part E as 1 of the partners.

“(ii) REGIONAL PARTNERSHIPS ENTERED INTO BY INDIAN TRIBES OR TRIBAL CONSORTIA.—If an Indian tribe or tribal consortium enters into a regional partnership for purposes of this subsection, the Indian tribe or tribal consortium—

“(I) may (but is not required to) include such State child welfare agency as a partner in the collaborative agreement; and

“(II) may not enter into a collaborative agreement only with tribal child welfare agencies (or a consortium of such agencies).

“(iii) NO STATE AGENCY ONLY PARTNERSHIPS.—If a State agency described in clause (i) or (ii) of subparagraph (A) enters into a regional partnership for purposes of this subsection, the State agency may not enter into a collaborative agreement only with the other State agency described in such clause (i) or (ii).

“(3) AUTHORITY TO AWARD GRANTS.—

“(A) IN GENERAL.—In addition to amounts authorized to be appropriated to carry out this section, the Secretary shall award grants under this subsection, from the amounts reserved for each of fiscal years 2007 through 2011 under section 436(b)(5), to regional partnerships that satisfy the requirements of this subsection, in amounts that are not less than \$500,000 and not more than \$1,000,000 per grant per fiscal year.

“(B) REQUIRED MINIMUM PERIOD OF APPROVAL.—A grant shall be awarded under this subsection for a period of not less than 2, and not more than 5, fiscal years.

“(4) APPLICATION REQUIREMENTS.—To be eligible for a grant under this subsection, a regional partnership shall submit to the Secretary a written application containing the following:

“(A) Recent evidence demonstrating that methamphetamine or other substance abuse has had a substantial impact on the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region.

“(B) A description of the goals and outcomes to be achieved during the funding period for the grant that will—

“(i) enhance the well-being of children receiving services or taking part in activities conducted with funds provided under the grant;

“(ii) lead to safety and permanence for such children; and

“(iii) decrease the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region.

“(C) A description of the joint activities to be funded in whole or in part with the funds provided under the grant, including the sequencing of the activities proposed to be conducted under the funding period for the grant.

“(D) A description of the strategies for integrating programs and services determined to be appropriate for the child and where appropriate, the child's family.

“(E) A description of the strategies for—

“(i) collaborating with the State child welfare agency described in paragraph (2)(A)(i) (unless that agency is the lead applicant for the regional partnership); and

“(ii) consulting, as appropriate, with—

“(I) the State agency described in paragraph (2)(A)(ii); and

“(II) the State law enforcement and judicial agencies.

To the extent the Secretary determines that the requirement of this subparagraph would be inappropriate to apply to a regional partnership that includes an Indian tribe, tribal consortium, or a tribal child welfare agency or a consortium of such agencies, the Secretary may exempt the regional partnership from the requirement.

“(F) Such other information as the Secretary may require.

“(5) USE OF FUNDS.—Funds made available under a grant made under this subsection shall only be used for services or activities that are consistent with the purpose of this subsection and may include the following:

“(A) Family-based comprehensive long-term substance abuse treatment services.

“(B) Early intervention and preventative services.

“(C) Children and family counseling.

“(D) Mental health services.

“(E) Parenting skills training.

“(F) Replication of successful models for providing family-based comprehensive long-term substance abuse treatment services.

“(6) MATCHING REQUIREMENT.—

“(A) FEDERAL SHARE.—A grant awarded under this subsection shall be available to pay a percentage share of the costs of services provided or activities conducted under such grant, not to exceed—

“(i) 85 percent for the first and second fiscal years for which the grant is awarded to a recipient;

“(ii) 80 percent for the third and fourth such fiscal years; and

“(iii) 75 percent for the fifth such fiscal year.

“(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of services provided or activities conducted under a grant awarded under this subsection may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to goods, services, and facilities contributed from non-Federal sources.

“(7) CONSIDERATIONS IN AWARDING GRANTS.—In awarding grants under this subsection, the Secretary shall—

“(A) take into consideration the extent to which applicant regional partnerships—

“(i) demonstrate that methamphetamine or other substance abuse by parents or caretakers has had a substantial impact on the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region;

“(ii) have limited resources for addressing the needs of children affected by such abuse;

“(iii) have a lack of capacity for, or access to, comprehensive family treatment services; and

“(iv) demonstrate a plan for sustaining the services provided by or activities funded under the grant after the conclusion of the grant period; and

“(B) after taking such factors into consideration, give greater weight to awarding grants to regional partnerships that propose to address methamphetamine abuse and addiction in the partnership region (alone or in combination with other drug abuse and addiction) and which demonstrate that methamphetamine abuse and addiction (alone or in combination with other drug abuse and addiction) is adversely affecting child welfare in the partnership region.

“(8) PERFORMANCE INDICATORS.—

“(A) IN GENERAL.—Not later than 9 months after the date of enactment of this subsection, the Secretary shall establish indicators that will be used to assess periodically the performance of the grant recipients under this subsection in using funds made available under such grants to achieve the purpose of this subsection.

“(B) CONSULTATION REQUIRED.—In establishing the performance indicators required by subparagraph (A), the Secretary shall consult with the following:

“(i) The Assistant Secretary for the Administration for Children and Families.

“(ii) The Administrator of the Substance Abuse and Mental Health Services Administration.

“(iii) Representatives of States in which a State agency described in clause (i) or (ii) of paragraph (2)(A) is a member of a regional partnership that is a grant recipient under this subsection.

“(iv) Representatives of Indian tribes, tribal consortia, or tribal child welfare agencies that are members of a regional partnership that is a grant recipient under this subsection.

“(9) REPORTS.—

“(A) GRANTEE REPORTS.—

“(i) ANNUAL REPORT.—Not later than September 30 of the first fiscal year in which a recipient of a grant under this subsection is paid funds under the grant, and annually thereafter until September 30 of the last fiscal year in which the recipient is paid funds under the grant, the recipient shall submit to the Secretary a report on the services provided or activities carried out during that fiscal year with such funds. The report shall contain such information as the Secretary determines is necessary to provide an accurate description of the services provided or activities conducted with such funds.

“(ii) INCORPORATION OF INFORMATION RELATED TO PERFORMANCE INDICATORS.—Each recipient of a grant under this subsection shall incorporate into the first annual report required by clause (i) that is submitted after the establishment of performance indicators under paragraph (8), information required in relation to such indicators.

“(B) REPORTS TO CONGRESS.—On the basis of the reports submitted under subparagraph (A), the Secretary annually shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

“(i) the services provided and activities conducted with funds provided under grants awarded under this subsection;

“(ii) the performance indicators established under paragraph (8); and

“(iii) the progress that has been made in addressing the needs of families with methamphetamine or other substance abuse problems who come to the attention of the child welfare system and in achieving the goals of child safety, permanence, and family stability.”.

(B) CONFORMING AMENDMENTS.—Section 437 of such Act (42 U.S.C. 629g) is amended—

(i) in the section heading, by inserting “AND TARGETED” after “DISCRETIONARY”; and

(ii) in subsection (e), by striking “this section” and inserting “subsection (a)”.

(C) EVALUATION, RESEARCH, AND TECHNICAL ASSISTANCE WITH RESPECT TO TARGETED PROGRAM RESOURCES.—Section 435(c) of such Act (42 U.S.C. 629e(c)) is amended to read as follows:

“(c) EVALUATION, RESEARCH, AND TECHNICAL ASSISTANCE WITH RESPECT TO TARGETED PROGRAM RESOURCES.—Of the amount reserved under section 436(b)(1) for a fiscal year, the Secretary shall use not less than—

“(1) \$1,000,000 for evaluations, research, and providing technical assistance with respect to supporting monthly caseworker visits with children who are in foster care under the responsibility of the State, in accordance with section 436(b)(4)(B)(i); and

“(2) \$1,000,000 for evaluations, research, and providing technical assistance with respect to grants under section 437(f).”.

SEC. 5. ALLOTMENTS AND GRANTS TO INDIAN TRIBES.

(a) INCREASE IN SET-ASIDES FOR INDIAN TRIBES.—

(1) MANDATORY GRANTS.—Section 436(b)(3) of the Social Security Act (42 U.S.C. 629f(b)(3)) is amended by striking “1” and inserting “3”.

(2) DISCRETIONARY GRANTS.—Section 437(b)(3) of such Act (42 U.S.C. 629g(b)(3)) is amended by striking “2” and inserting “3”.

(3) EFFECT OF RESERVATION OF FUNDS FOR TARGETED PROGRAM RESOURCES ON AMOUNTS RESERVED FOR INDIAN TRIBES.—Section 436(b)(3) of such Act (42 U.S.C. 629b(b)(3)) is

amended by striking “The” and inserting “After applying paragraphs (4) and (5) (but before applying paragraphs (1) or (2)), the”.

(b) AUTHORITY FOR TRIBAL CONSORTIA TO RECEIVE ALLOTMENTS.—

(1) ALLOTMENT OF MANDATORY FUNDS.—

(A) IN GENERAL.—Section 433(a) of such Act (42 U.S.C. 629c(a)) is amended—

(i) in the subsection heading, by inserting “OR TRIBAL CONSORTIA” after “TRIBES”; and

(ii) by adding at the end the following new sentence: “If a consortium of Indian tribes submits a plan approved under this subpart, the Secretary shall allot to the consortium an amount equal to the sum of the allotments determined for each Indian tribe that is part of the consortium.”.

(B) CONFORMING AMENDMENT.—Section 436(b)(3) of such Act (42 U.S.C. 629f(b)(3)) is amended—

(i) in the paragraph heading, by inserting “OR TRIBAL CONSORTIA” after “TRIBES”; and

(ii) by inserting “or tribal consortia” after “Indian tribes”.

(2) ALLOTMENT OF ANY DISCRETIONARY FUNDS.—Section 437 of such Act (42 U.S.C. 629g) is amended—

(A) in subsection (b)(3)—

(i) in the paragraph heading, by inserting “OR TRIBAL CONSORTIA” after “TRIBES”; and

(ii) by inserting “or tribal consortia” after “Indian tribes”; and

(B) in subsection (c)(1)—

(i) in the paragraph heading, by inserting “OR TRIBAL CONSORTIA” after “TRIBES”; and

(ii) by adding at the end the following new sentence: “If a consortium of Indian tribes applies and is approved for a grant under this section, the Secretary shall allot to the consortium an amount equal to the sum of the allotments determined for each Indian tribe that is part of the consortium.”.

(3) ADDITIONAL CONFORMING AMENDMENTS.—

(A) PLANS OF INDIAN TRIBES.—Section 432(b)(2) of such Act (42 U.S.C. 629b(b)(2)) is amended—

(i) in the paragraph heading, by inserting “OR TRIBAL CONSORTIA” after “TRIBES”; and

(ii) in subparagraph (A), by inserting “or tribal consortium” after “Indian tribe” each place it appears; and

(iii) in subparagraph (B)—

(I) by inserting “or tribal consortium” after “Indian tribe”; and

(II) by inserting “and tribal consortia” after “Indian tribes”.

(B) DIRECT PAYMENTS TO TRIBAL ORGANIZATIONS.—Section 434(c) of such Act (42 U.S.C. 629d(c)) is amended—

(i) in the subsection heading, by inserting “OR TRIBAL CONSORTIA” after “TRIBES”; and

(ii) by inserting “or tribal consortium” after “Indian tribe” the first place it appears; and

(iii) by inserting “or in the case of a payment to a tribal consortium, such tribal organizations of, or entity established by, the Indian tribes that are part of the consortium as the consortium shall designate” before the period.

(C) EVALUATIONS; RESEARCH; TECHNICAL ASSISTANCE.—Section 435(d) of such Act (42 U.S.C. 629e(d)) is amended in the matter preceding paragraph (1), by inserting “or tribal consortia” after “Indian tribes”.

(c) COLLECTION OF DATA ON TRIBAL PROMOTING SAFE AND STABLE FAMILIES PLANS.—Section 432(b)(2)(A) of such Act (42 U.S.C. 629b(b)(2)(A)), as amended by subsection (b)(3)(A)(ii) of this section, is amended by striking “any requirement of this section that the Secretary determines” and inserting “the requirements of subsection (a)(4) of this section to the extent that the Secretary determines those requirements”.

SEC. 6. IMPROVEMENTS TO THE CHILD WELFARE SERVICES PROGRAM.

(a) FUNDING.—Subpart 1 of part B of title IV of the Social Security Act (42 U.S.C. 620–628b) is amended by striking sections 420 and 425 and inserting after section 424 the following:

“LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS

“SEC. 425. To carry out this subpart, there are authorized to be appropriated to the Secretary not more than \$325,000,000 for each of fiscal years 2007 through 2011.”.

(b) PURPOSE OF PROGRAM.—Such subpart is further amended—

(1) by striking section 424;

(2) by redesignating sections 421 and 423 as sections 423 and 424, respectively, and by transferring section 423 (as so redesignated) so that it appears after section 422; and

(3) by inserting after the subpart heading the following:

“PURPOSE

“SEC. 421. The purpose of this subpart is to promote State flexibility in the development and expansion of a coordinated child and family services program that utilizes community-based agencies and ensures all children are raised in safe, loving families, by—

“(1) protecting and promoting the welfare of all children;

“(2) preventing the neglect, abuse, or exploitation of children;

“(3) supporting at-risk families through services which allow children, where appropriate, to remain safely with their families or return to their families in a timely manner;

“(4) promoting the safety, permanence, and well-being of children in foster care and adoptive families; and

“(5) providing training, professional development and support to ensure a well-qualified child welfare workforce.”.

(c) MODIFICATION OF STATE PLAN REQUIREMENTS.—Section 422 of such Act (42 U.S.C. 622) is amended—

(1) in subsection (b)—

(A) by striking paragraphs (3) through (5) and inserting the following:

“(3) include a description of the services and activities which the State will fund under the State program carried out pursuant to this subpart, and how the services and activities will achieve the purpose of this subpart;”;

(B) by striking paragraph (6) and inserting after paragraph (3) (as added by subparagraph (A) of this paragraph) the following:

“(4) contain a description of—

“(A) the steps the State will take to provide child welfare services statewide and to expand and strengthen the range of existing services and develop and implement services to improve child outcomes; and

“(B) the child welfare services staff development and training plans of the State;”;

(C) by redesignating paragraphs (7) through (9) as paragraphs (5) through (7), respectively;

(D) in paragraph (10)—

(i) by striking subparagraph (A);

(ii) in subparagraph (B)(iii)(II), by inserting “, which may include a residential educational program” after “in some other planned, permanent living arrangement”; and

(iii) by redesignating subparagraph (B) as subparagraph (A); and

(iv) by striking subparagraph (C) and inserting after subparagraph (A) the following:

“(B) has in effect policies and administrative and judicial procedures for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of the children) which enable permanent decisions to be made expeditiously with respect to the placement of the children;”;

(E) in paragraph (14), by striking “and” at the end;

(F) in paragraph (15), by striking the period and inserting a semicolon;

(G) by redesignating paragraphs (10) through (15) as paragraphs (8) through (13), respectively; and

(H) by adding at the end the following:

“(14) not later than October 1, 2007, include assurances that not more than 10 percent of the expenditures of the State with respect to activities funded from amounts provided under this subpart will be for administrative costs;

“(15) describe how the State actively consults with and involves physicians or other appropriate medical professionals in—

“(A) assessing the health and well-being of children in foster care under the responsibility of the State; and

“(B) determining appropriate medical treatment for the children; and

“(16) provide that, not later than 1 year after the date of the enactment of this paragraph, the State shall have in place procedures providing for how the State programs assisted under this subpart, subpart 2 of this part, or part E would respond to a disaster, in accordance with criteria established by the Secretary which should include how a State would—

“(A) identify, locate, and continue availability of services for children under State care or supervision who are displaced or adversely affected by a disaster;

“(B) respond, as appropriate, to new child welfare cases in areas adversely affected by a disaster, and provide services in those cases;

“(C) remain in communication with caseworkers and other essential child welfare personnel who are displaced because of a disaster;

“(D) preserve essential program records; and

“(E) coordinate services and share information with other States.”; and

(2) by adding at the end the following:

“(c) DEFINITIONS.—In this subpart:

“(1) ADMINISTRATIVE COSTS.—The term ‘administrative costs’ means costs for the following, but only to the extent incurred in administering the State plan developed pursuant to this subpart: procurement, payroll management, personnel functions (other than the portion of the salaries of supervisors attributable to time spent directly supervising the provision of services by caseworkers), management, maintenance and operation of space and property, data processing and computer services, accounting, budgeting, auditing, and travel expenses (except those related to the provision of services by caseworkers or the oversight of programs funded under this subpart).

“(2) OTHER TERMS.—For definitions of other terms used in this part, see section 475.”.

(d) PROVISIONS RELATING TO STATE ALLOTMENTS.—Section 423 of such Act, as so redesignated by subsection (b)(2) of this section, is amended—

(1) in subsection (a)—

(A) by inserting “IN GENERAL.—” after “(a)”; and

(B) by striking “420” and inserting “425”; and

(2) in subsection (b), by inserting “DETERMINATION OF STATE ALLOTMENT PERCENTAGES.—” after “(b)”; and

(3) in subsection (c), by inserting “PROMULGATION OF STATE ALLOTMENT PERCENTAGES.—” after “(c)”; and

(4) in subsection (d)—

(A) by inserting “UNITED STATES DEFINED.—” after “(d)”; and

(B) by striking “fifty” and inserting “50”; and

(5) by adding at the end the following:

“(e) REALLOTMENT OF FUNDS.—

“(1) IN GENERAL.—The amount of any allotment to a State for a fiscal year under the preceding provisions of this section which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in section 422 shall be available for reallocation from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines—

“(A) need sums in excess of the amounts allotted to such other States under the preceding provisions of this section, in carrying out their State plans so developed; and

“(B) will be able to so use such excess sums during the fiscal year.

“(2) CONSIDERATIONS.—The Secretary shall make the reallocations on the basis of the State plans so developed, after taking into consideration—

“(A) the population under 21 years of age;

“(B) the per capita income of each of such other States as compared with the population under 21 years of age; and

“(C) the per capita income of all such other States with respect to which such a determination by the Secretary has been made.

“(3) AMOUNTS REALLOTTED TO A STATE DEEMED PART OF STATE ALLOTMENT.—Any amount so reallocated to a State is deemed part of the allotment of the State under this section.”.

(e) PAYMENTS TO STATES; LIMITATIONS ON USE OF FUNDS.—

(1) LIMITATIONS RELATED TO STATE EXPENDITURES FOR CHILD CARE, FOSTER CARE MAINTENANCE PAYMENTS, AND ADOPTION ASSISTANCE PAYMENTS.—Section 424 of such Act, as so redesignated by subsection (b)(2) of this section, is amended by striking subsections (c) and (d) and inserting the following:

“(c) LIMITATION ON USE OF FEDERAL FUNDS FOR CHILD CARE, FOSTER CARE MAINTENANCE PAYMENTS, OR ADOPTION ASSISTANCE PAYMENTS.—The total amount of Federal payments under this subpart for a fiscal year beginning after September 30, 2007, that may be used by a State for expenditures for child care, foster care maintenance payments, or adoption assistance payments shall not exceed the total amount of such payments for fiscal year 2005 that were so used by the State.

“(d) LIMITATION ON USE BY STATES OF NON-FEDERAL FUNDS FOR FOSTER CARE MAINTENANCE PAYMENTS TO MATCH FEDERAL FUNDS.—For any fiscal year beginning after September 30, 2007, State expenditures of non-Federal funds for foster care maintenance payments shall not be considered to be expenditures under the State plan developed under this subpart for the fiscal year to the extent that the total of such expenditures for the fiscal year exceeds the total of such expenditures under the State plan developed under this subpart for fiscal year 2005.”.

(2) LIMITATION ON ADMINISTRATIVE COST REIMBURSEMENT.—

(A) IN GENERAL.—Section 424 of such Act (42 U.S.C. 623), as so redesignated by subsection (b)(2) of this section, is amended by adding at the end the following:

“(e) LIMITATION ON REIMBURSEMENT FOR ADMINISTRATIVE COSTS.—A payment may not be made to a State under this section with respect to expenditures during a fiscal year for administrative costs, to the extent that the total amount of the expenditures exceeds 10 percent of the total expenditures of the State during the fiscal year for activities funded from amounts provided under this subpart.”.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to expenditures made on or after October 1, 2007.

(f) CONFORMING AMENDMENTS.—

(1) Section 428(b) of such Act (42 U.S.C. 628(b)) is amended by striking “421” and inserting “423”.

(2) Section 429 of such Act (42 U.S.C. 628a) is amended—

(A)(i) by striking the following:

“CHILD WELFARE TRAINEESHIPS

“SEC. 429. The Secretary”; and

(ii) inserting the following:

“(c) CHILD WELFARE TRAINEESHIPS.—The Secretary”; and

(B) by transferring the provision to the end of section 426 (as amended by section 11(b) of this Act).

(3) Section 429A of such Act (42 U.S.C. 628b) is redesignated as section 429.

(4) Section 433(b) of such Act (42 U.S.C. 629c(b)) is amended by striking “421” and inserting “423”.

(5) Section 437(c)(2) of such Act (42 U.S.C. 629g(c)(2)) is amended by striking “421” and inserting “423”.

(6) Section 472(d) of such Act (42 U.S.C. 672(d)) is amended by striking “422(b)(10)” and inserting “422(b)(8)”.

(7) Section 473A(f) of such Act (42 U.S.C. 673b(f)) is amended by striking “423” and inserting “424”.

(8) Section 1130(b)(1) of such Act (42 U.S.C. 1320a-9(b)(1)) is amended to read as follows:

“(1) any provision of section 422(b)(8), or section 479; or”.

(9) Section 104(b)(3) of the Intercountry Adoption Act of 2000 (42 U.S.C. 14914(b)(3)) is amended by striking “422(b)(14) of the Social Security Act, as amended by section 205 of this Act” and inserting “422(b)(12) of the Social Security Act”.

SEC. 7. MONTHLY CASEWORKER STANDARD.

(a) STATE PLAN REQUIREMENT.—Section 422(b) of the Social Security Act (42 U.S.C. 622(b)), as amended by section 6(c) of this Act, is amended—

(1) by striking “and” at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting “; and”; and

(3) by adding at the end the following:

“(17) not later than October 1, 2007, describe the State standards for the content and frequency of caseworker visits for children who are in foster care under the responsibility of the State, which, at a minimum, ensure that the children are visited on a monthly basis and that the caseworker visits are well-planned and focused on issues pertinent to case planning and service delivery to ensure the safety, permanency, and well-being of the children.”.

(b) ENFORCEMENT.—Section 424 of the Social Security Act, as so redesignated by section 6(b)(2) of this Act, is amended by adding at the end the following:

“(e)(1) The Secretary may not make a payment to a State under this subpart for a period in fiscal year 2008, unless the State has provided to the Secretary data which shows, for fiscal year 2007—

“(A) the percentage of children in foster care under the responsibility of the State who were visited on a monthly basis by the caseworker handling the case of the child; and

“(B) the percentage of the visits that occurred in the residence of the child.

“(2)(A) Based on the data provided by a State pursuant to paragraph (1), the Secretary, in consultation with the State, shall establish, not later than June 30, 2008, an outline of the steps to be taken to ensure, by October 1, 2011, that at least 90 percent of the children in foster care under the responsibility of the State are visited by their caseworkers on a monthly basis, and that the majority of the visits occur in the residence of the child. The outline shall include target percentages to be reached each fiscal year,

and should include a description of how the steps will be implemented. The steps may include activities designed to improve caseworker retention, recruitment, training, and ability to access the benefits of technology.

“(B) Beginning October 1, 2008, if the Secretary determines that a State has not made the requisite progress in meeting the goal described in subparagraph (A) of this paragraph, then the percentage that shall apply for purposes of subsection (a) of this section for the period involved shall be the percentage set forth in such subsection (a) reduced by—

“(i) 1, if the number of full percentage points by which the State fell short of the target percentage established for the State for the period pursuant to such subparagraph is less than 10;

“(ii) 3, if the number of full percentage points by which the State fell short, as described in clause (i), is not less than 10 and less than 20; or

“(iii) 5, if the number of full percentage points by which the State fell short, as described in clause (i), is not less than 20.”.

(C) REPORTS.—

(1) PROGRESS REPORT.—Not later than March 31, 2010, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that outlines the progress made by the States in meeting the standards referred to in section 422(b)(17) of the Social Security Act, and offers recommendations developed in consultation with State officials responsible for administering child welfare programs and members of the State legislature to assist States in their efforts to ensure that foster children are visited on a monthly basis.

(2) INCLUSION OF INFORMATION ON CASEWORKER VISITS IN ANNUAL CHILD WELL-BEING OUTCOME REPORTS.—Section 479A of such Act (42 U.S.C. 679b) is amended—

(A) by striking “and” at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting “; and”; and

(C) by adding at the end the following:

“(6) include in the report submitted pursuant to paragraph (5) for fiscal year 2007 or any succeeding fiscal year, State-by-State data on—

“(A) the percentage of children in foster care under the responsibility of the State who were visited on a monthly basis by the caseworker handling the case of the child; and

“(B) the percentage of the visits that occurred in the residence of the child.”.

SEC. 8. REAUTHORIZATION OF PROGRAM FOR MENTORING CHILDREN OF PRISONERS.

(a) IN GENERAL.—Section 439 of the Social Security Act (42 U.S.C. 629i) is amended—

(1) in subsection (c), by striking “2002 through 2006” and inserting “2007 through 2011”; and

(2) in subsection (h)—

(A) by striking paragraph (1) and inserting the following:

“(1) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal years 2007 through 2011.”; and

(B) in paragraph (2), by striking “2.5” and inserting “4”.

(b) SERVICE DELIVERY DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Section 439 of such Act (42 U.S.C. 629i), as amended by subsection (a) of this section, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

“(g) SERVICE DELIVERY DEMONSTRATION PROJECT.—

“(1) PURPOSE; AUTHORITY TO ENTER INTO CO-OPERATIVE AGREEMENT.—The Secretary shall enter into a cooperative agreement with an eligible entity that meets the requirements of paragraph (2) for the purpose of requiring the entity to conduct a demonstration project consistent with this subsection under which the entity shall—

“(A) identify children of prisoners in need of mentoring services who have not been matched with a mentor by an applicant awarded a grant under this section, with a priority for identifying children who—

“(i) reside in an area not served by a recipient of a grant under this section;

“(ii) reside in an area that has a substantial number of children of prisoners;

“(iii) reside in a rural area; or

“(iv) are Indians;

“(B) provide the families of the children so identified with—

“(i) a voucher for mentoring services that meets the requirements of paragraph (5); and

“(ii) a list of the providers of mentoring services in the area in which the family resides that satisfy the requirements of paragraph (6); and

“(C) monitor and oversee the delivery of mentoring services by providers that accept the vouchers.

“(2) ELIGIBLE ENTITY.—

“(A) IN GENERAL.—Subject to subparagraph (B), an eligible entity under this subsection is an organization that the Secretary determines, on a competitive basis—

“(i) has substantial experience—

“(I) in working with organizations that provide mentoring services for children of prisoners; and

“(II) in developing quality standards for the identification and assessment of mentoring programs for children of prisoners; and

“(ii) submits an application that satisfies the requirements of paragraph (3).

“(B) LIMITATION.—An organization that provides mentoring services may not be an eligible entity for purposes of being awarded a cooperative agreement under this subsection.

“(3) APPLICATION REQUIREMENTS.—To be eligible to be awarded a cooperative agreement under this subsection, an entity shall submit to the Secretary an application that includes the following:

“(A) QUALIFICATIONS.—Evidence that the entity—

“(i) meets the experience requirements of paragraph (2)(A)(i); and

“(ii) is able to carry out—

“(I) the purposes of this subsection identified in paragraph (1); and

“(II) the requirements of the cooperative agreement specified in paragraph (4).

“(B) SERVICE DELIVERY PLAN.—

“(i) DISTRIBUTION REQUIREMENTS.—Subject to clause (iii), a description of the plan of the entity to ensure the distribution of not less than—

“(I) 3,000 vouchers for mentoring services in the first year in which the cooperative agreement is in effect with that entity;

“(II) 8,000 vouchers for mentoring services in the second year in which the agreement is in effect with that entity; and

“(III) 13,000 vouchers for mentoring services in any subsequent year in which the agreement is in effect with that entity.

“(ii) SATISFACTION OF PRIORITIES.—A description of how the plan will ensure the delivery of mentoring services to children identified in accordance with the requirements of paragraph (1)(A).

“(iii) SECRETARIAL AUTHORITY TO MODIFY DISTRIBUTION REQUIREMENT.—The Secretary may modify the number of vouchers specified in subclauses (I) through (III) of clause (i) to take into account the availability of appropriations and the need to ensure that the vouchers distributed by the entity are for amounts that are adequate to ensure the provision of mentoring services for a 12-month period.

“(C) COLLABORATION AND COOPERATION.—A description of how the entity will ensure collaboration and cooperation with other interested parties, including courts and prisons, with respect to the delivery of mentoring services under the demonstration project.

“(D) OTHER.—Any other information that the Secretary may find necessary to demonstrate the capacity of the entity to satisfy the requirements of this subsection.

“(4) COOPERATIVE AGREEMENT REQUIREMENTS.—A cooperative agreement awarded under this subsection shall require the eligible entity to do the following:

“(A) IDENTIFY QUALITY STANDARDS FOR PROVIDERS.—To work with the Secretary to identify the quality standards that a provider of mentoring services must meet in order to participate in the demonstration project and which, at a minimum, shall include criminal records checks for individuals who are prospective mentors and shall prohibit approving any individual to be a mentor if the criminal records check of the individual reveals a conviction which would prevent the individual from being approved as a foster or adoptive parent under section 471(a)(20)(A).

“(B) IDENTIFY ELIGIBLE PROVIDERS.—To identify and compile a list of those providers of mentoring services in any of the 50 States or the District of Columbia that meet the quality standards identified pursuant to subparagraph (A).

“(C) IDENTIFY ELIGIBLE CHILDREN.—To identify children of prisoners who require mentoring services, consistent with the priorities specified in paragraph (1)(A).

“(D) MONITOR AND OVERSEE DELIVERY OF MENTORING SERVICES.—To satisfy specific requirements of the Secretary for monitoring and overseeing the delivery of mentoring services under the demonstration project, which shall include a requirement to ensure that providers of mentoring services under the project report data on the children served and the types of mentoring services provided.

“(E) RECORDS, REPORTS, AND AUDITS.—To maintain any records, make any reports, and cooperate with any reviews and audits that the Secretary determines are necessary to oversee the activities of the entity in carrying out the demonstration project under this subsection.

“(F) EVALUATIONS.—To cooperate fully with any evaluations of the demonstration project, including collecting and monitoring data and providing the Secretary or the Secretary's designee with access to records and staff related to the conduct of the project.

“(G) LIMITATION ON ADMINISTRATIVE EXPENDITURES.—To ensure that administrative expenditures incurred by the entity in conducting the demonstration project with respect to a fiscal year do not exceed the amount equal to 10 percent of the amount awarded to carry out the project for that year.

“(5) VOUCHER REQUIREMENTS.—A voucher for mentoring services provided to the family of a child identified in accordance with paragraph (1)(A) shall meet the following requirements:

“(A) TOTAL PAYMENT AMOUNT; 12-MONTH SERVICE PERIOD.—The voucher shall specify the total amount to be paid a provider of mentoring services for providing the child on

whose behalf the voucher is issued with mentoring services for a 12-month period.

“(B) PERIODIC PAYMENTS AS SERVICES PROVIDED.—

“(i) IN GENERAL.—The voucher shall specify that it may be redeemed with the eligible entity by the provider accepting the voucher in return for agreeing to provide mentoring services for the child on whose behalf the voucher is issued.

“(ii) DEMONSTRATION OF THE PROVISION OF SERVICES.—A provider that redeems a voucher issued by the eligible entity shall receive periodic payments from the eligible entity during the 12-month period that the voucher is in effect upon demonstration of the provision of significant services and activities related to the provision of mentoring services to the child on whose behalf the voucher is issued.

“(6) PROVIDER REQUIREMENTS.—In order to participate in the demonstration project, a provider of mentoring services shall—

“(A) meet the quality standards identified by the eligible entity in accordance with paragraph (1);

“(B) agree to accept a voucher meeting the requirements of paragraph (5) as payment for the provision of mentoring services to a child on whose behalf the voucher is issued;

“(C) demonstrate that the provider has the capacity, and has or will have nonfederal resources, to continue supporting the provision of mentoring services to the child on whose behalf the voucher is issued, as appropriate, after the conclusion of the 12-month period during which the voucher is in effect; and

“(D) if the provider is a recipient of a grant under this section, demonstrate that the provider has exhausted its capacity for providing mentoring services under the grant.

“(7) 3-YEAR PERIOD; OPTION FOR RENEWAL.—

“(A) IN GENERAL.—A cooperative agreement awarded under this subsection shall be effective for a 3-year period.

“(B) RENEWAL.—The cooperative agreement may be renewed for an additional period, not to exceed 2 years and subject to any conditions that the Secretary may specify that are not inconsistent with the requirements of this subsection or subsection (1)(2)(B), if the Secretary determines that the entity has satisfied the requirements of the agreement and evaluations of the service delivery demonstration project demonstrate that the voucher service delivery method is effective in providing mentoring services to children of prisoners.

“(8) INDEPENDENT EVALUATION AND REPORT.—

“(A) IN GENERAL.—The Secretary shall enter into a contract with an independent, private organization to evaluate and prepare a report on the first 2 fiscal years in which the demonstration project is conducted under this subsection.

“(B) DEADLINE FOR REPORT.—Not later than 90 days after the end of the second fiscal year in which the demonstration project is conducted under this subsection, the Secretary shall submit the report required under subparagraph (A) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. The report shall include—

“(i) the number of children as of the end of such second fiscal year who received vouchers for mentoring services; and

“(ii) any conclusions regarding the use of vouchers for the delivery of mentoring services for children of prisoners.

“(9) NO EFFECT ON ELIGIBILITY FOR OTHER FEDERAL ASSISTANCE.—A voucher provided to a family under the demonstration project conducted under this subsection shall be disregarded for purposes of determining the eligibility for, or the amount of, any other Fed-

eral or federally-supported assistance for the family.”.

(2) CONFORMING AMENDMENTS.—Section 439 of such Act (42 U.S.C. 629i), as amended by subsection (a) of this section and paragraph (1) of this subsection, is amended—

(A) in subsection (a)—

(i) in the subsection heading, by striking “PURPOSE” and inserting “PURPOSES”; and

(ii) in paragraph (2)—

(I) in the paragraph heading, by striking “PURPOSE” and inserting “PURPOSES”; and

(II) by striking “The purpose of this section is to authorize the Secretary to make competitive” and inserting “The purposes of this section are to authorize the Secretary—

“(A) to make competitive”;

(iii) by striking the period at the end and inserting “; and”; and

(iv) by adding at the end the following:

“(B) to enter into on a competitive basis a cooperative agreement to conduct a service delivery demonstration project in accordance with the requirements of subsection (g).”;

(B) in subsection (c)—

(i) by striking “(h)” and inserting “(i)”; and

(ii) by striking “(h)(2)” and inserting “(i)(2)”;

(C) by amending subsection (h) (as so redesignated by paragraph (1)(A) of this subsection) to read as follows:

“(h) INDEPENDENT EVALUATION; REPORTS.—

“(1) INDEPENDENT EVALUATION.—The Secretary shall conduct by grant, contract, or cooperative agreement an independent evaluation of the programs authorized under this section, including the service delivery demonstration project authorized under subsection (g).

“(2) REPORTS.—Not later than 12 months after the date of enactment of this subsection, the Secretary shall submit a report to the Congress that includes the following:

“(A) The characteristics of the mentoring programs funded under this section.

“(B) The plan for implementation of the service delivery demonstration project authorized under subsection (g).

“(C) A description of the outcome-based evaluation of the programs authorized under this section that the Secretary is conducting as of that date of enactment and how the evaluation has been expanded to include an evaluation of the demonstration project authorized under subsection (g).

“(D) The date on which the Secretary shall submit a final report on the evaluation to the Congress.”; and

(D) in subsection (i) (as so redesignated)—

(i) in the subsection heading, by striking “RESERVATION” and inserting “RESERVATIONS”; and

(ii) in paragraph (2)—

(I) by amending the paragraph heading to read as follows: “RESERVATIONS”; and

(II) by striking “The” and inserting the following:

“(A) RESEARCH, TECHNICAL ASSISTANCE, AND EVALUATION.—The”; and

(III) by adding at the end the following:

“(B) SERVICE DELIVERY DEMONSTRATION PROJECT.—

“(i) IN GENERAL.—Subject to clause (ii), for purposes of awarding a cooperative agreement to conduct the service delivery demonstration project authorized under subsection (g), the Secretary shall reserve not more than—

“(I) \$5,000,000 of the amount appropriated under paragraph (1) for the first fiscal year in which funds are to be awarded for the agreement;

“(II) \$10,000,000 of the amount appropriated under paragraph (1) for the second fiscal year in which funds are to be awarded for the agreement; and

“(III) \$15,000,000 of the amount appropriated under paragraph (1) for the third fiscal year in which funds are to be awarded for the agreement.

“(ii) ASSURANCE OF FUNDING FOR GENERAL PROGRAM GRANTS.—With respect to any fiscal year, no funds may be awarded for a cooperative agreement under subsection (g), unless at least \$25,000,000 of the amount appropriated under paragraph (1) for that fiscal year is used by the Secretary for making grants under this section for that fiscal year.”.

SEC. 9. REAUTHORIZATION OF THE COURT IMPROVEMENT PROGRAM.

Section 438 of the Social Security Act (42 U.S.C. 629h) is amended in each of subsections (c)(1)(A) and (d) by striking “2006” and inserting “2011”.

SEC. 10. REQUIREMENT FOR FOSTER CARE PROCEEDING TO INCLUDE, IN AN AGE-APPROPRIATE MANNER, CONSULTATION WITH THE CHILD THAT IS THE SUBJECT OF THE PROCEEDING.

Section 475(5)(C) of the Social Security Act (42 U.S.C. 675(5)(C)) is amended—

(1) by inserting “(i)” after “with respect to each such child.”;

(2) by striking “and procedural safeguards shall also” and inserting “(ii) procedural safeguards shall”; and

(3) by inserting “and (iii) procedural safeguards shall be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to independent living, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child;” after “parents;”.

SEC. 11. TECHNICAL AMENDMENTS.

(a) UPDATING OF ARCHAIC LANGUAGE.—

(1) Section 423 of the Social Security Act, as so redesignated by section 6(b)(2) of this Act—

(A) is amended by striking “per centum” and inserting “percent”; and

(B) by striking “He” and inserting “The Secretary”.

(2) Section 424(a) of such Act, as so redesignated by section 6(b)(2) of this Act, is amended by striking “per centum” and inserting “percent”.

(b) ELIMINATION OF OBSOLETE PROVISION.—Section 426 of such Act (42 U.S.C. 626) is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

(c) TECHNICAL CORRECTION.—Section 431(a)(6) of such Act (42 U.S.C. 629a(a)(6)) is amended by striking “1986” and inserting “1996”.

SEC. 12. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on October 1, 2006, and shall apply to payments under parts B and E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(b) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan developed pursuant to subpart 1 of part B, or a State plan approved under subpart 2 of part B or part E, of title IV of the Social Security Act to meet the additional requirements imposed by the amendments made by this Act, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the 1st calendar quarter beginning after the first regular session of the State legislature

that begins after the date of the enactment of this Act. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

(c) AVAILABILITY OF PROMOTING SAFE AND STABLE FAMILIES RESOURCES FOR FISCAL YEAR 2006.—Section 3(c) shall take effect on the date of the enactment of this Act.

SA 5025. Mr. McCONNELL (for Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. HATCH, Mr. ROCKEFELLER, and Ms. SNOWE)) proposed an amendment to the bill S. 3525, to reauthorize the safe and stable families program, and for other purposes; as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Act, insert the following: "An Act to amend part B of title IV of the Social Security Act to reauthorize the promoting safe and stable families program, and for other purposes."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 20, 2006, at 10 a.m., to conduct a hearing on "Calculated Risk: Assessing Non-Traditional Mortgage Products."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a committee hearing on the nomination of Mary Peters to be Secretary of Transportation on Wednesday, September 20, 2006 at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, September 20, 2006, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony on "Our Business Tax System: Objectives, Deficiencies, and Options for Reform".

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 20, 2006, at 10 a.m. to hold a hearing on nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. FRIST. Mr. President: I ask unanimous consent that on Wednesday,

September 20, 2006 at 2:30 p.m. the Committee on Environment and Public Works be authorized to hold a hearing to examine approaches embodied in the Asia Pacific Partnership.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, September 20, 2006 at 10 a.m. in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, September 20, 2006, at 2:30 p.m. for a hearing titled, "Critical Mission: Assessing Spiral 1.1 of the National Security Personnel System."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, September 20, 2006, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct an Oversight Hearing on the Tribal Self Governance: Obstacles and Impediments to Expansion of Self Governance.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Reporters' Privilege Legislation: Preserving Effective Federal Law Enforcement" on Wednesday, September 20, 2006 at 9:30 a.m. in Dirksen Senate Office Building Room 226.

Witness List

Panel I: The Honorable Paul J. McNulty, Deputy Attorney General, Department of Justice, Washington, DC.

Panel II: Theodore B. Olson, Partner, Gibson, Dunn & Crutcher LLP, Washington, DC; Bruce A. Baird, Partner, Covington & Burling LLP, Washington, DC; Victor E. Schwartz, Partner, Shook, Hardy & Bacon LLP, Washington, DC; Steven D. Clymer, Professor, Cornell Law School, Ithaca, NY.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Examining the Proposal to Restructure the Ninth Circuit" on Wednesday, Sep-

tember 20, 2006 at 2 p.m. in Dirksen Senate Office Building Room 226.

Witness List

Panel I: Members Panel (TBD).

Panel II: Rachel L. Brand, Assistant Attorney General, Office of Legal Policy, Department of Justice, Washington, DC.

Panel III: The Honorable Mary Schroeder, Chief Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, Phoenix, AZ; The Honorable Richard Tallman, Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, Seattle, WA; The Honorable Sidney R. Thomas, Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, Billings, MT; The Honorable Diarmuid O'Scannlain, Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, Portland, OR; and The Honorable John M. Roll, Chief District Judge, U.S. District Court for the District of Arizona, Tucson, AZ.

Panel IV: The Honorable Pete Wilson, Former United States Senator-CA and Former Governor of California, Bingham McCutchen, Of Counsel, Bingham Consulting Group, Principal, Los Angeles, CA; Dr. John C. Eastman, Chapman University School of Law, Anaheim, CA; and William H. Neukom, Esq., Preston Gates & Ellis, LLP, Seattle, WA.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, September 20, 2006, to hear the legislative presentation of The American Legion.

The hearing will take place in room 106 of the Dirksen Senate Office Building at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 20, 2006 at 3:30 p.m. to hold a closed briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRADE, TOURISM, AND ECONOMIC DEVELOPMENT

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Trade, Tourism, and Economic Development be authorized to meet on Wednesday, September 20, 2006 at 10 a.m. on Internet Governance: The Future of ICANN.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECURITY AND ACCOUNTABILITY FOR EVERY PORT ACT

On Thursday, September 14, 2006, the Senate passed H.R. 4954, as follows:

H.R. 4954

Resolved, That the bill from the House of Representatives (H.R. 4954) entitled "An Act